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DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: 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 for the Return of Title IV Funds on the Web (R2T4OTW). R2T4OTW is a web-based product the Department provides for institutions to calculate the earned and unearned portions of student aid distributed under Title IV of the Higher Education Act of 1965, as amended (HEA), when a student withdraws from a postsecondary institution without completing the period for which funds were awarded.

DATES: The Department seeks comments on the new system of records described in this notice, in accordance with the requirements of the Privacy Act. We must receive your comments on or before August 25, 2004.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Governmental Affairs, the Chair of the House Committee on Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on July 21, 2004. This new system of records will become effective on the later of the two following dates—(1) The expiration of the 40-day period for OMB review on August 30, 2004, or the expiration of a 30-day OMB review period on August 23, 2004 if OMB grants the Department's request for a 10-day waiver of the review period; or (2) August 25, 2004, unless the system of records requires changes as a result of public comment or OMB review. The Department will publish any changes resulting from public comment or OMB review.

ADDRESSES: Address all comments about this new system of records to Marya Dennis, Management and Program Analyst, Application Processing Division, Students Channel, Federal Student Aid, U.S. Department of Education, 830 First Street, NE., UCP room 3111, Washington, DC 20202—

5454. If you prefer to send your comments through the Internet, use the following address: *comments@ed.gov*.

You must include the term "Return of Title IV Funds on the Web" in the subject line of your electronic message.

During and after the comment period, you may inspect all public comments about this notice in room 31F2, Union Center Plaza, 830 First Street, NE., Washington, DC, 20202-5454 between the hours of 8 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:

Marya Dennis. Telephone: (202) 377-3385. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a) requires the Department to publish in the **Federal Register** this notice of a new system of records. The Department's regulations implementing the Privacy Act are contained in part 5b of title 34 of the Code of Federal Regulations (CFR).

The Privacy Act applies to information about an individual that is maintained in a system of records from which information is retrieved by a unique identifier associated with the individual, such as a name or social security number (SSN). The information about the individual is called a "record" and the system, whether manual or computer-based, is called a "system of records." The Privacy Act requires agencies to publish a notice of a new system of records in the **Federal Register** and to prepare a report to OMB whenever the agency publishes a new system of records or makes a significant

change to an established system of records. Each agency is also required to send copies to the Chair of the Senate Committee on Governmental Affairs and the Chair of the House Committee on Government Reform. These reports are intended to permit an evaluation of the probable or potential effect of the proposal on the privacy rights of individuals.

The records for the system described in this notice are created by a web-based product the Department provides for institutions to calculate the earned and unearned portions of student aid distributed under Title IV of the Higher Education Act of 1965, as amended (HEA), when a student withdraws from a postsecondary institution before completing the period for which the funds were awarded. The institution collects and enters the required data into the web-based product, and the product calculates the earned and unearned amounts of Title IV aid, and the amounts that must be returned to the Title IV programs by the student and the school. When applicable, the product also determines the amount of additional funds the student must be offered as a post-withdrawal disbursement. The institution may also use this information to provide required notifications to the Title IV recipient and to track the recipient's responses as provided under section 484B of the HEA (20 U.S.C. 1091b) and the implementing regulations in 34 CFR 668.22. In addition to the calculation, the institution may choose to generate a variety of useful reports. These reports include a listing of all students who have withdrawn from the institution; a report of students to be notified by the institution on the results of the Return of Title IV Funds (R2T4) calculation; a report of the students who owe a Title IV grant overpayment and whether the student has taken positive action to establish repayment; a report of the students for which the institution has responsibility to repay Title IV funds to the programs; a report on post-withdrawal disbursements that the institution must offer to the Title IV recipient; and a report on students who owe a Title IV grant overpayment that the institution must refer to the Department. These reports are only available to the institutional users that input the data and that access the reports using their unique log-in codes and passwords. The information described in this system of records is not linked to any other Department, Federal, State, lender or guarantee agency systems.

This system includes records on students for whom Title IV funds were

disbursed or were eligible to be disbursed for the period of time the student was in attendance during a payment period or period of enrollment. The records contain personally identifiable information about each withdrawn student. These records may include, but are not limited to, student name, permanent and local addresses, social security number, and date of birth. This system may also contain information about the institution, and the educational program in which the student had been enrolled before withdrawing, including but not limited to: The school's Federal school code, the award year, the total institutional charges, the program calendar type (credit hour or clock hour), the starting and ending dates of the payment period or period of enrollment, the withdrawal date, the withdrawal reason, the date the institution provided notice to the student of the overpayment, the date on which the recipient responded to the required notification, and the types and amounts of Title IV funds that must be returned by the student or institution, or a post-withdrawal disbursement (a disbursement for which the student is eligible after his or her withdrawal), as applicable, as well as the recipient's response, the amount that the recipient and the institution may retain, as well as any contemporaneous notes regarding the R2T4 process for each student's record.

This new system of records, R2T4OTW, can maintain information provided by the institution to track required institutional notifications to Title IV recipients and their responses to those notifications, as well as to provide reports to the institution that indicate the number of days remaining to take statutorily required actions.

Electronic Access To This Document

You may view this document, as well as all other Department of Education documents 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>.

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/index.html>.

Dated: July 21, 2004.

Theresa S. Shaw,

Chief Operating Officer, Federal Student Aid.

For the reasons discussed in the preamble, the Chief Operating Officer of Federal Student Aid of the U.S. Department of Education publishes a notice of a new system of records to read as follows:

18-11-15

SYSTEM NAME:

Return of Title IV Funds on the Web.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Application Processing Division, Students Channel, Federal Student Aid, U.S. Department of Education, 830 First St. NE., Washington, DC 20202-5454.

Virtual Data Center (VDC), Meriden Data Center, 71 Deerfield Lane, Meriden, Connecticut 06450.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system includes records on individuals who were enrolled at a postsecondary institution, have received or are eligible to receive assistance under a Title IV, HEA program for a payment period or period of enrollment, and have withdrawn prior to the planned completion date of school during that period.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains personally identifiable information provided by the school from which a student has withdrawn that may include, but is not limited to, a student's name, permanent and local addresses, social security number, date of birth, driver's license number and state, permanent and local phone numbers, and student identification (ID). This system also contains information provided by the institution from which the student has withdrawn that is necessary to compute the earned and unearned amounts of Title IV funds. This information may include, but is not limited to, the student's: Federal school code, award year, grade level, program type (*i.e.* credit hour or clock hour), school calendar (that maintains the term start and end dates and institutionally scheduled breaks of five or more consecutive days), a description and amount of each institutional charge (a charge for tuition and fees, a charge for room, a charge for board, and charges for other educationally-related costs), and the total institutional charges for a program, program title, or program type, whether the R2T4 calculation is based

upon a payment period or period of enrollment, the total clock hours or number of days in the payment period or period of enrollment, the withdrawal date, the net number of days in the payment period or period of enrollment, the date the institution determined the student withdrew (as reported by the institution), a description of the type of withdrawal, the number of days of an approved leave of absence, whether an outside entity requires the school to take attendance, the clock hours scheduled, the clock hours completed, the date the student provided the institution with written authorization to credit Title IV aid to the student's account, the date the institution notified the student of the amounts and types of Title IV funds that must be returned, the date and response of the student, the types and amounts of Title IV aid disbursed and that could have been disbursed, the types and amounts of Title IV aid that must be returned to each program by the student and the institution, the types and amounts of aid that the student and the institution may retain, post-withdrawal disbursement information (*i.e.*, the amount of outstanding charges, the dates notices were sent informing the student that a credit was applied and/or that a disbursement was available and the dates and responses of the student, the amount and the date the student accepted a post-withdrawal disbursement, and the date the post-withdrawal disbursement was completed), the date the R2T4 procedure was completed, the user defined field data provided by the institution such as grade point average, major in college, overpayment status, withdrawal reason, leave of absence reason, and contemporaneous notes regarding the student's return process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The information maintained in the R2T4OTW system is authorized under section 484B of the HEA. Under section 484B of the HEA (20 U.S.C. 1091b), if a recipient of Title IV grant or loan assistance withdraws from an institution during a payment period or period of enrollment in which the student began attendance, a participating institution must determine the amount of grant and loan assistance to be returned to the Title IV programs.

PURPOSE(S):

Information contained in this system is maintained for the purposes of: (1) Allowing postsecondary institutions to calculate the treatment of Title IV funds when a student withdraws from a postsecondary institution, (2) allowing institutions to track students' statuses

and responses to institutional notifications, and (3) generating listings and reports, allowing institutions to establish compliance with the applicable statutory and regulatory requirements in the HEA for the treatment of Title IV funds when a student ceases his or her enrollment before the planned end date. (**Note:** The use of this software is not required.)

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

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

(1) *Program Disclosures.* The Department may disclose records to the postsecondary institution that input the information into the R2T4OTW system, in order to simplify the current process, provide institutions and their agents with consolidated information about the Federal loans and grants they administer for students, and enable them to provide students with accurate required information when a student withdraws.

(2) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, or local agency responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law if that information is relevant to any authorized enforcement, investigative, or prosecutorial effort.

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

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

(a) *Introduction.* In the event that one of the following parties 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; or

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

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

(iv) Any Department employee in his or her individual capacity where the Department 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 DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the DOJ.

(b) *Adjudicative disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear or to an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes, is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(c) *Parties, counsel, representatives and 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) Advice Disclosure.* The Department may disclose records to the DOJ or the OMB if the Department determines that disclosure would help in determining whether records are required to be disclosed under the FOIA or the 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 establish and maintain the safeguards required under the Act (5 U.S.C. 552a(m)) with respect to the records.

(7) *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 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.

(8) *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 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.

(9) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: a complaint, grievance, discipline or competence determination proceeding. The disclosure may only be made during the course of the proceeding.

(10) *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.

(11) *Disclosure to 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 any program covered by this system.

(12) *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

qualified to carry out specific research related to functions or purposes of this system of records. Further, 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 maintain safeguards with respect to the disclosed records as required by the Act.

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, 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 this paragraph under 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:

R2T4OTW records are backed up and maintained on magnetic tape at the Department's Virtual Data Center (VDC), located at 71 Deerfield Lane, Meriden, CT 06450, and locked storage rooms within the VDC.

RETRIEVABILITY:

Records for R2T4OTW are indexed and can be retrieved by only the institution that created the record at the VDC and the Department. The institution accesses its own student R2T4OTW records through a secure log-in process and subsequently entering the institution's unique Federal school code and the student's Social Security Number.

SAFEGUARDS:

Physical access to the data systems housed within the VDC facility is controlled by a computerized badge reading system, and the entire complex is patrolled by security personnel during non-business hours. This computer system offers a high degree of resistance to tampering and circumvention. Multiple levels of security are maintained within the computer system control program. This security system limits data access to

Department staff, participating institutions, and contract staff on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. Users are only able to access and alter records created with their unique identifiers. All interactions by individual users with the system are recorded. The systems manager annually updates and sends the Department the Central Processing System Security Plan, documenting the VDC's detailed security systems, including the physical location of the data stored at the VDC. This system does not use persistent cookies (data that a web server causes to be placed on a user's hard drive) to implement personalization. It is the policy of the Department to prohibit the use of persistent cookies on U.S. Department of Education web sites except where: there is a compelling need; there are appropriate safeguards in place; the use is personally approved by the Secretary of Education; and there is clear and conspicuous notice to the public.

RETENTION AND DISPOSAL:

The Department will retain all identifiable records received from schools with identifying information for a period not to exceed three years after the repayment or cancellation of the loan in accordance with the Education Comprehensive Schedule, ED-RDS—Part 10, Item 16(d) for applicants with federally insured loans. For applicants without federal insured loans, the Department will retain all identifiable records received with identifying information for a period not to exceed fifteen years after the final Pell Grant payment or audit, whichever is first in accordance with the Education Comprehensive Schedule, ED-RDS—Part 10, Item 17(a) and (b). At the conclusion of the mandatory retention period, these records will be destroyed. This procedure is consistent with legal retention requirements established by the Department in conjunction with the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Application Processing Division, Students Channel, Federal Student Aid, U.S. Department of Education, 830 First St., NE., UCP room 32E2, Washington, DC 20202-5454.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, contact the system

manager and provide the name of the system (R2T4OTW), your name, date of birth, and Social Security Number or call 1-800-4-FED-AID (1-800-433-3243) and provide the identifiers indicated above when requesting information contained in this system of records. Requests for notification about whether this system of records contains information about an individual must meet the requirements of the regulations in 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, contact the system manager and provide the information described in the Notification Procedure. Requests by an individual for access to a record must meet the requirements of the regulations in 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to change the content of a record in the system of records for the current processing year R2T4OTW, contact the system manager with the information described in the Notification Procedure, identify the specific items to be changed, the institution and period of time the student was enrolled, and provide a justification for the change. The Department will contact the institution, which will make the change to the student's record, as applicable. Requests to amend a record must meet the requirements of the regulations in 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

The institution from which a student receiving Title IV aid for the payment period or period of enrollment has withdrawn provides the information used in this system by manually entering it in the web product on the Department's web site. For institutions that have access to the Internet, R2T4OTW is available on the Department of Education web site located at: <http://www.fafsa.ed.gov/FOTWebApp/faa/faa.jsp>.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

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