



---

## MEMORANDUM

TO: Federal Student Aid's (FSA) Vendors

FROM: Richard Cordray  
Chief Operating Officer  
Federal Student Aid (FSA)  
U.S. Department of Education

DATE: May 28, 2021

SUBJECT: Revised guidance to FSA vendors on outside requests for Department records and data

This vendor guidance establishes standard procedures for handling requests received by Federal Student Aid (FSA)'s vendors from various first and third parties seeking records and data from the U.S. Department of Education (Department).<sup>1</sup> This guidance also establishes a streamlined and expedited process for reviewing requests from Federal, State, Local, Tribal, and Territorial Government agencies and financial regulators. The Department believes this change will enable FSA to collaborate and coordinate more effectively with our partners, including state attorneys general and federal and state financial regulators, as they engage in vital oversight of our vendors by facilitating access to the data they need. This revised guidance supersedes the so-called "Bradfield memo" from December 2017 that addressed "Ownership of and Access to U.S. Department of Education Records and Data" and the FSA guidance G1.20.02 covering "Requests for Information from Outside Sources."

FSA regularly performs robust and comprehensive quality assurance activities to ensure that our vendors provide world-class customer service and comply with all statutory, regulatory, and contractual requirements. In addition to FSA's internal oversight efforts, the Department regularly partners with agencies like the Consumer Financial Protection Bureau (CFPB) to conduct joint oversight and supervisory examinations. To conduct these joint oversight and supervisory examinations effectively, our interagency partners need to have streamlined access to Department records and data where such access is permitted by applicable laws and policies.

The Department, through FSA, maintains personally identifiable information relating to the application for, distribution of, and repayment and collection of federal student loans and grants authorized pursuant to Title IV of the Higher Education Act of 1965, as amended. The Privacy Act of 1974, as amended, 5 U.S.C. § 552a, protects such information that the Department

---

<sup>1</sup> "First parties" refer to the individual to whom the record pertains. "Third parties" refer to parties other than the individual and the Department.

maintains in any system of records. A “system of records,” as defined in the Privacy Act, is a group of any records under the Department’s control from which information is retrieved by the name of the individual or by some other unique identifier assigned to the individual. The Department may not collect, maintain, use, or disseminate information from such records without complying with the Privacy Act, which provides for civil and criminal penalties for the unlawful release of protected information. The Privacy Act requires the Department to publish in the Federal Register a system of records notice (SORN) when establishing any new system of records or making significant changes to an existing system of records. The Department’s current compilation of SORNs is available at <https://www2.ed.gov/notices/edpia.html>.

All federal loan servicers, private collection agencies, and other Department contractors who support the federal student aid programs must comply with the Privacy Act requirements when they operate a system of records on behalf of the Department to accomplish a Departmental function.<sup>2</sup> All records maintained in any Department systems of records, which the Department allows its contractors to access, remain the Department’s records rather than records of a contractor. Unless the contract specifically requires the contractor to make a particular disclosure, any request from any first or third party for Department records to which a contractor has access must be made directly to the Department. The Department will evaluate such requests on a case-by-case basis, where applicable, for compliance with the requirements of the Privacy Act and other Federal privacy laws, for compliance with the Department's regulations for demands for records in legal proceedings (found at 34 C.F.R. Part 8), and for compliance with the Freedom of Information Act.

The Department and FSA intend to exercise their authority to collaborate and coordinate with Federal, State, Local, Tribal, or Territorial Government agencies and financial regulators in carrying out their mutual responsibilities on behalf of students and their families. If you receive an information request for Department records or data from a Federal, State, Local, Tribal, or Territorial Government agency or financial regulator, then forward it to:

- FSA’s Vendor Oversight Group: [OversightSpecialProjects@ed.gov](mailto:OversightSpecialProjects@ed.gov)

Please also provide a copy to each of the following:

- Executive Director, Vendor Oversight & Program Accountability: [patrick.campbell@ed.gov](mailto:patrick.campbell@ed.gov),
- Director, Vendor Oversight Group: [lisa.tessitore@ed.gov](mailto:lisa.tessitore@ed.gov),

---

<sup>2</sup> For example, FSA’s standard loan servicing contract states, “It is understood and mutually agreed that the **Department of Education has exclusive ownership of all information stored in, retrieved, modified, and/or archived in as part of this service.** The contractor shall have no rights in such information and no rights to such information shall vest on the contractor by virtue of its performance of this contract. No other party has the right to copy, delete, archive, or transfer such information without the prior express written consent of the Department of Education.” (emphasis added). FSA’s contracts with private collection agencies (PCAs) requires vendors to comply with Federal Acquisition Regulation (FAR) clause 52.224-2 (Privacy Act). This clause states: “The Contractor agrees to comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act.”

- your contracting officer,
- your contract officer representative,
- your vendor liaison,
- your Office of the General Counsel contact, and
- the FOIA Controls mailbox: [FOIAControls@ed.gov](mailto:FOIAControls@ed.gov).

If you receive a request or inquiry from an individual seeking to obtain Department records or data pertaining to that individual pursuant to a request under the Privacy Act, the procedures governing such requests made to the Department are found at 34 C.F.R. § 5b.5, as well as on the Department's website at [http://www.ed.gov/policy/gen/leg/foia/request\\_privacy.html](http://www.ed.gov/policy/gen/leg/foia/request_privacy.html).

If you receive a request or inquiry from any party seeking to obtain Department records or data pursuant to a request under the Freedom of Information Act, the procedures governing such requests made to the Department are found at 34 C.F.R. Part 5 Subpart C, as well as on the Department's website at [http://www.ed.gov/policy/gen/leg/foia/request\\_foia.html](http://www.ed.gov/policy/gen/leg/foia/request_foia.html).

Any questions concerning this Memorandum should be directed to your Contracting Officer and include the individuals listed above.