

# Memorandum

United States Department of Education  
Institute of Education Sciences  
National Center for Education Statistics

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DATE: March 3, 2016

TO: Robert Sivinski, OMB

THROUGH: Kashka Kubzdela, OMB Liaison, NCES

FROM: Elise Christopher, HSLs:09 Project Officer, NCES

SUBJECT: High School Longitudinal Study of 2009 (HSLs:09) Second Follow-up Main Study Authorization Citation and Survey Update (OMB# 1850-0852 v.18)

The High School Longitudinal Study of 2009 (HSLs:09) Second Follow-up Main Study and 2018 Panel Maintenance request was approved by OMB in December 2015 (OMB# 1850-0852 v.17). This memorandum provides final revisions to HSLs:09 contacting materials and the survey instrument.

## Changes to contacting materials

NCES is requesting to amend the HSLs:09 Second Follow-up Main Study (OMB# 1850-0852 v.17) supporting statement Part A and institution contacting materials to correct the regulatory citation under the Family Educational Rights and Privacy Act (FERPA), which provides NCES with the authority to collect personally identifying information from postsecondary students' education records without their consent.

NCES was incorrectly citing 34 CFR § 99.31(a)(6) which indicated that its exception to collect student records without consent was in the capacity of administering studies for, or on behalf of educational agencies or institutions. The correct authority is 34 CFR § 99.31(a)(3) which permits NCES to collect student records without consent as an authorized representative of the Secretary of Education.

Specifically, FERPA permits educational institutions to disclose personally identifiable information from students' education records, without consent, to authorized representatives of the Secretary of Education in connection with an evaluation of federally supported education programs. 34 CFR §§ 99.31(a)(3) and 99.35.

To incorporate the correct citation, we revised references to and citations of FERPA from 34 CFR § 99.31(a)(6) to 34 CFR § 99.31(a)(3) in *Supporting Statement Part A* of the HSLs:09 second follow-up main study package (pages 16-17). We also corrected this reference in the contacting materials in Appendices F-G (page X) which present institution contacting materials regarding student financial aid records and postsecondary transcripts (see below for the explicit changes). In *Appendix D HSLs 2009 2nd Follow-up Main Study Communication Materials* we only corrected the new NCES zip code to 20202.

## A. Changes to Part A of the HSLs:09 Supporting Statement (pp. 16-17)

### Old Citation:

Regarding file matching with administrative sources, the Family Educational Rights and Privacy Act (FERPA) (34 CFR Part 99) allows the disclosure of information without prior consent for the purposes of HSLs:09 according to the following excerpts: 34 CFR § 99.31 poses the question: “Under what conditions is prior consent not required to disclose information?” and explains in 34 CFR § 99.31(a) that “An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by §99.30 if the disclosure meets one or more” of several conditions. These conditions include, at 34 CFR § 99.31(a)(6)(i):

“The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to:

- (A) Develop, validate, or administer predictive tests;
- (B) Administer student aid programs; or
- (C) Improve instruction.”

In addition, 34 CFR § 99.31(a)(6)(v) specifies: “For the purposes of paragraph (a)(6) of this section, the term *organization* includes, but is not limited to, Federal, State, and local agencies, and independent organizations.”

All three parts of 34 CFR § 99.31(a)(6)(i) apply to HSLs:09. The purpose of HSLs:09 is to create a research data set for a cohort of 9th-graders that brings together information about academic achievement in high school and subsequent participation in postsecondary education along with federal, state, and private financial aid programs. HSLs:09 also gathers background and demographic data to form the context for the outcome variables. The resulting data set allows research and policy analysts to address basic issues about the relationship between high school experiences and participation in postsecondary education and the labor market. The data set can be used for, or on behalf of, educational agencies or institutions to accomplish activities (A), (B), and (C).

In 34 CFR § 99.31 (a)(6)(iii), FERPA further specifies that such disclosure may only occur if “[the] study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization” and “[the] information is destroyed when no longer needed for the purposes for which the study was conducted.”

### New Citation:

The Family Educational Rights and Privacy Act (FERPA) (34 CFR Part 99) allows the disclosure of personally identifiable information from students’ education records without prior consent for the purposes of HSLs:09 according to the following excerpts: 34 CFR § 99.31 asks, “Under what conditions is prior consent not required to disclose information?” and explains in 34 CFR § 99.31(a) that “An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by §99.30 if the disclosure meets one or more” of several conditions. These conditions include, at 34 CFR § 99.31(a)(3):

The disclosure is, subject to the requirements of §99.35, to authorized representatives of--

- (i) The Comptroller General of the United States;
- (ii) The Attorney General of the United States;

- (iii) The Secretary; or
- (iv) State and local educational authorities.

HSLs:09 is collecting data under the Secretary's authority. Specifically, NCES, as an authorized representative of the Secretary of Education, is collecting this information for the purpose of evaluating a federally supported education program. Any personally identifiable information is collected with adherence to the security protocol detailed in 34 CFR § 99.35:

(a)(1) Authorized representatives of the officials or agencies headed by officials listed in §99.31(a)(3) may have access to education records in connection with an audit or evaluation of Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs.

(2) The State or local educational authority or agency headed by an official listed in §99.31(a)(3) is responsible for using reasonable methods to ensure to the greatest extent practicable that any entity or individual designated as its authorized representative—

(i) Uses personally identifiable information only to carry out an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements related to these programs;

(ii) Protects the personally identifiable information from further disclosures or other uses, except as authorized in paragraph (b)(1) of this section; and

(iii) Destroys the personally identifiable information in accordance with the requirements of paragraphs (b) and (c) of this section.

(b) Information that is collected under paragraph (a) of this section must—

(1) Be protected in a manner that does not permit personal identification of individuals by anyone other than the State or local educational authority or agency headed by an official listed in §99.31(a)(3) and their authorized representatives, except that the State or local educational authority or agency headed by an official listed in §99.31(a)(3) may make further disclosures of personally identifiable information from education records on behalf of the educational agency or institution in accordance with the requirements of §99.33(b); and

(2) Be destroyed when no longer needed for the purposes listed in paragraph (a) of this section.

(c) Paragraph (b) of this section does not apply if:

(1) The parent or eligible student has given written consent for the disclosure under §99.30; or

(2) The collection of personally identifiable information is specifically authorized by Federal law.

## **B. Changes to Appendix F-G HSLs 2009 2nd Follow-up Main Study Transcripts & Financial Aid Records**

### **1. Transcript Collection Request Letter from NCES (page F-4)**

#### **Old Citation:**

The Family Educational Rights and Privacy Act of 1974 (FERPA) (20 U.S.C. § 1232[g]) allows for the release of institution record information to the Secretary of Education or his agent without prior consent of survey members (34 CFR § 99.31[a]). All responses that relate to or describe identifiable characteristics of individuals may be used only for statistical purposes and may not be disclosed or used in identifiable form for any other purpose except as required by law (Education Sciences Reform Act of 2002, 20 U.S.C. § 9573). RTI International, as the contractor for NCES, has been given the authority to collect information from institution records under federal law. The enclosed Family Educational Rights and Privacy Act Fact Sheet includes the text of the FERPA requirements, with passages that authorize this transcript data collection highlighted.

**New Citation:**

For the purposes of this collection of data, the Family Educational Rights and Privacy Act of 1974 (FERPA) permits educational institutions to disclose personally identifiable information from students' education records, without consent, to authorized representatives of the Secretary of Education in connection with an evaluation of federally supported education programs, (34 CFR §§ 99.31(a)(3) and 99.35). All responses that relate to or describe identifiable characteristics of individuals may be used only for statistical purposes and may not be disclosed or used in identifiable form for any other purpose except as required by law (Education Sciences Reform Act of 2002, 20 U.S.C. § 9573). RTI International, as the contractor for NCES, has been given the authority to collect information from institution records under federal law. The enclosed Family Educational Rights and Privacy Act Fact Sheet includes the text of the FERPA requirements, with passages that authorize this transcript data collection highlighted.

**2. Transcript Request Letter from Endorsing Agency (page F-5)****3. Brochure Text High School Longitudinal Study of 2009 (HSLs:09) Postsecondary Education Transcript Study (PETS) (page F-17)****4. Text for Financial Aid Record Collection Information Sheet (G-12)****Old Citation:**

The Family Educational Rights and Privacy Act of 1974 (FERPA) (20 U.S.C. § 1232[g]) allows for the release of institution record information to the Secretary of Education or his agent without prior consent of survey members (34 CFR § 99.31[a]).

**New Citation:**

The Family Educational Rights and Privacy Act of 1974 (FERPA) (20 U.S.C. § 1232[g]) allows for the release of institution record information to the Secretary of Education or his agent without prior consent of survey members (34 CFR §§ 99.31(a)(3) and 99.35).

**5. Website Text (page F-28)****6. HSLs:09 Financial Aid Record Collection Frequently Asked Questions (FAQs) (page G-)****Old Citation:**

Under FERPA's general consent rule, NCES is authorized to obtain student level data from institutions for any study-eligible student, without prior consent, if the disclosure is to an organization administering studies for, or on behalf of, NCES. Student data are subject to strict protections that are adhered to by NCES and its contractor organizations. You can review this legislation on the U.S. Department of Education's website at <http://www2.ed.gov/policy/gen/reg/ferpa>.

**New Citation:**

Under FERPA's general consent rule, NCES is authorized to obtain student level data from institutions for any study-eligible student, without prior consent, if the disclosure is to authorized representatives of the Secretary of Education [34 CFR §§ 99.31(a)(3) and 99.35]. Student data are subject to strict protections that are adhered to by NCES and its contractor organizations. You can review this regulation on the U.S. Department of Education's website at <http://www2.ed.gov/policy/gen/reg/ferpa>.

**Changes to the survey instrument:**

NCES is also requesting approval to modify the HSLs:09 Second Follow-up survey instrument. All of the proposed changes are designed to improve clarity and flow of the survey items, and do not introduce

changes to content, respondent burden, or the cost to the federal government. Appendix E presents a table listing all desired changes organized by the type of change (pages E-1 to E-18), as summarized below:

The main changes include:

- a. Changing a few questions to ask about the entire postsecondary experience rather than just the experience at the reference institution specifically (i.e., H4EVRREQHELP, H4KNOWNDSB, H4PSACCMDTNS).
- b. Adding 2012-2013 school year rows in H4EVRENWRK and H4ENRWRKHRS.
- c. Removing ROTC as an option in H4MLTACTIVE.
- d. Changing the reference period for some questions (i.e., H4DEP – H4HRSVOLUNTR, H4ACS17A – H4PSACCMDTNS).

Other changes include:

- e. Refining question and response option wording for clarity.
- f. Customizing question wording for specificity.
- g. Adding clarifying instructions.
- h. Eliminating unnecessary wordiness.
- i. Standardizing response options across similar questions (e.g., year options).
- j. Providing appropriate items and response options for all sample members (e.g., adding an option for having completed a bachelor's degree since February 2016, or adding 2012 – 2013 school year to the questions about working while enrolled).
- k. Revising some reference periods to reduce the number of times the respondents have to switch their thinking.

NCES thanks OMB for considering these changes. Data collection is scheduled to begin on March 14, 2016.