

**§ 99.35(a)(3)**

The final regulation add a new requirement under § 99.35(a)(3) that requires an agency headed by an official listed in § 99.31(a)(3) to use a written agreement to designate any authorized representative other than an agency employee. The written agreement must: (1) designate the individual or entity as an authorized representative; (2) specify the PII from education records to be disclosed; (3) specify that the purpose for which the PII from education records is disclosed to the authorized representative is to carry out an audit or evaluation of Federal- or State-supported education programs, or to enforce or to comply with Federal legal requirements that relate to those programs; (4) describe the activity to make clear that it legitimately fits within the exception of §99.31; (5) require the authorized representative to destroy PII from education records when the information is no longer needed for the purpose specified; (6) specify the time period in which the PII from education records must be destroyed; and (7) establish policies and procedures, consistent with FERPA and other Federal and State confidentiality and privacy provisions, to protect PII from education records from further disclosure (except back to the disclosing entity) and unauthorized use. We estimate that the burden for States is estimated at 40 hours annually for each educational authority (one for K-12 and one for postsecondary). This 40 hours of burden was reached by estimating that 103 State authorities may handle the agreements up to 10 times per year with an estimated time of 4 hours per agreement. Total anticipated increase in annual burden would be 4,120 hours for this new requirement.

In addition, the burden for large LEAs and postsecondary institutions (1,452 educational agencies and institutions with a student population of over 10,000) is estimated to be 4 hours annually. Assuming each large LEA and postsecondary institution handles the agreements up to 1 time per year with an estimated 4 hours per agreement, the total anticipated increase in annual burden for large LEAs and postsecondary institutions would be 5,808 hours for this requirement. The total estimated burden under this provision is 9,928 hours.

No. of St. & Fed. Edu. Authorities:	103
<u>Average No. of Disclosures:</u>	<u>x 10</u>
# of Responses	1,030
<u>Hours/Response:</u>	<u>x 4</u>
Burden Hours	4,120

No. of Large LEAs & Post. Inst:	1,452
<u>Average No. of Disclosures:</u>	<u>x 1</u>
# of Responses	1,452
<u>Hours/Response:</u>	<u>x 4</u>
Burden Hours	5,808

State & Fed. Burden Hours:	4,120
<u>School Burden Hours:</u>	<u>5,808</u>
Total Burden Hours for Written Agreements:	9,928