

## **Family Educational Rights and Privacy Act (FERPA) Supporting Statement**

### **1. Necessity of Information Collected.**

The Family Educational Rights and Privacy Act (FERPA) is codified at 20 U.S.C. § 1232g. The purpose of FERPA is to protect the privacy of students' education records. FERPA affords certain rights to parents and to eligible students (i.e., students who have reached 18 years of age or are attending a postsecondary institution at any age) with respect to the students' education records. FERPA applies to educational agencies and institutions that receive funds from any program administered by the United States Department of Education (Department). The FERPA regulations are found at 34 CFR Part 99.

The FERPA statute and regulations impose the following applicable requirements on covered educational agencies and institutions:

- 20 U.S.C. § 1232g(e) requires each educational agency or institution to annually inform parents and eligible students of their rights under FERPA (*see also* 34 CFR § 99.7).
- 20 U.S.C. § 1232g(b)(1)(F) permits educational agencies and institutions to non-consensually disclose personally identifiable information (PII) from students' education records to organizations conducting certain types of studies for, or on behalf of, such educational agencies and institutions. An educational agency or institution that non-consensually discloses PII from education records under this exception to FERPA's written consent requirement must enter into a written agreement with the organization that is conducting the study (34 CFR § 99.31(a)(6)(iii)(C)). The written agreement must: (1) specify the purpose, scope, and duration of the study and the PII from education records being disclosed; (2) require the organization conducting the study to use the PII from education records only to meet the purpose(s) of the study, as stated in the written agreement; (3) require the organization to conduct the study in a manner that does not permit personal identification of parents and students by anyone other than representatives of the organization with legitimate interests; and (4) require the organization to destroy all PII from education records when the information is no longer needed for the purpose(s) for which the study was conducted, and specify the time period in which the information must be destroyed (34 CFR §§ 99.31(a)(6)(iii)(C)(1)-99.31(a)(6)(iii)(C)(4)).
- 20 U.S.C. § 1232g(b)(4)(A) requires each educational agency or institution to keep a record of parties who have asked for and/or received access to a student's education

records (*see also* 34 CFR § 99.32).

- 34 CFR § 99.32(b)(2)(i) also requires State and local educational authorities and Federal officials and agencies listed in 34 CFR § 99.31(a)(3) to maintain a record of further disclosures of PII from education records that these parties may make on behalf of an educational agency or institution, if the educational agency or institution does not record the further disclosures or if the PII is received from another State or local educational authority or a Federal official or agency listed in 34 CFR § 99.31(a)(3).
- 34 CFR § 99.32(a)(4) requires an educational agency or institution to obtain a copy of the record of further disclosures maintained by a State or local educational authority or Federal official or agency and make it available in response to a parent's or eligible student's request to review the student's record of disclosures.
- 34 CFR § 99.32(a)(5) requires that educational agencies and institutions record the articulable and significant threat to the health or safety of a student or other individuals that formed the basis for any non-consensual disclosure of PII from education records under 34 CFR §§ 99.31(a)(10) and 99.36 (34 CFR § 99.32(a)(5)). This is in addition to the longstanding requirement in 34 CFR § 99.32 that educational agencies and institutions keep a record of parties who have asked for and/or received access to students' education records.
- 34 CFR § 99.32(a)(1) requires educational agencies and institutions to maintain a record in each applicable student education record of the State and local educational authorities and Federal officials and agencies listed in 34 CFR § 99.31(a)(3) that may make further disclosures of the student's education records without prior, written parent or eligible student consent.
- 34 CFR § 99.35(a)(3) requires each State or local educational authority, and Federal agency headed by an official listed in 34 CFR § 99.31(a)(3), to use a written agreement when non-consensually disclosing PII from education records to an authorized representative, other than an employee, 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. In the written agreement, the State or local educational authority, or applicable agency must: (1) designate as an authorized representative the individual or entity to whom the disclosure is made; (2) specify the PII from education records to be disclosed, and that the purpose for which the PII from education records is disclosed; (3) describe, with sufficient specificity, the activity for which the PII from education records will be used; (4) require the authorized representative to destroy the PII from education records when it is no longer needed for the purpose for which it was disclosed; (5) specify the time period in which the PII from education records must be destroyed; and (6) establish policies and procedures to protect the PII from education records from further unauthorized disclosure (34 CFR § 99.35(a)(3)).

- 20 U.S.C. § 1232g(a)(5)(B) and 34 CFR§ 99.37 requires any educational agency or institution that elects to implement a directory information policy under FERPA to specify its policy in the public notice to parents and eligible students in attendance at the educational agency or institution.
- 20 U.S.C. § 1232g(b)(2)(B) and 34 CFR § 99.31(a)(9) requires that educational agencies and institutions make a reasonable effort to notify parents or eligible students if it receives a judicial order or lawfully issued subpoena which would require a disclosure of education records, in advance of compliance. Under 34 CFR § 99.33(b)(2), a party, such as a State educational agency, that receives a court order or lawfully issued subpoena and rediscloses PII from education records on behalf of an educational agency or institution in response to that order or subpoena under § 99.31(a)(9) must provide the notification required by that provision. There are exceptions to the type of court orders and subpoenas that require notification.

This is an extension of a previously approved information collection request. Neither the statute nor the regulations have substantively changed since approval of the prior information collection request. (While the regulations were amended in 2017, the change was not substantive and did not affect burden estimates.) We have adjusted the number of educational agencies and institutions based on information collected by the Department.

## **2. Purpose of Use of Information Collected.**

Educational agencies and institutions, such as schools, school districts and postsecondary institutions, are required to annually notify parents and eligible students of their rights under FERPA. 20 U.S.C. § 1232(e); 34 CFR § 99.7. An educational agency or institution is not required to notify parents and eligible students individually, but rather is required to provide the notice by any means that are reasonably likely to inform them of their rights under FERPA. These means could include, but are not limited to, publication in the school activities calendar, newsletter, school website, student handbook, and/or a combination of these methods.

In addition, educational agencies and institutions must keep a record of each request for access to and each disclosure of PII from the education records of each student. FERPA includes several exceptions to the recordation requirement. The recordation requirement does not apply to requests from nor disclosures to: (1) the parent or eligible student; (2) a school official with a legitimate educational interest; (3) a party with written consent from the parent or eligible student; (4) a party seeking directory information; and (5) a party seeking or receiving the records as directed by a Federal grand jury or other law enforcement subpoena and where the issuing court or agency has ordered that the existence or contents of the subpoena or the information furnished in response not be disclosed, or pursuant to an *ex parte* court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. § 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. § 2331.

The general notification requirement required by 34 CFR § 99.31(a)(9) with regard to judicial orders and lawfully issued subpoenas is necessary so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with certain types of judicial orders or subpoenas described above in the recordation explanation.

FERPA requires that educational agencies and institutions also record the names of additional parties, if any, to which the party to whom the educational agency or institution discloses PII from education records may make further disclosures of the information on behalf of the educational agency or institution, and the legitimate interest under 34 CFR § 99.31 which each such additional party has in requesting or obtaining the information. The FERPA regulations require that State and local educational authorities and Federal officials and agencies listed in 34 CFR § 99.31(a)(3) that receive PII from students' education records – such as a State department of education – maintain a record of any further disclosures of the information that they make on behalf of the educational agency or institution, if the disclosing educational agency or institution did not record the further disclosures, or if the information was received from another State or local educational authority or Federal official or agency listed in § 99.31(a)(3) of the FERPA regulations.

Educational agencies and institutions must also maintain a listing in each student's education records of the State and local educational authorities and Federal officials and agencies listed in 34 CFR § 99.31(a)(3) that may make further non-consensual disclosures of PII from the students' education records on behalf of the agency or institution. This helps to ensure that parents and eligible students know that the record of disclosures maintained by an educational agency or institution may not contain all further disclosures made on behalf of the agency or institution by a State or Federal authority or official, and to alert parents and eligible students to the need to ask for access to this additional information. This requirement would only apply in those cases where educational agencies and institutions have non-consensually disclosed PII from education records to any of the authorities or officials listed in § 99.31(a)(3) of the FERPA regulations. Under this exception to FERPA's general rule of consent, educational agencies and institutions are permitted to non-consensually disclose PII from education records to these particular officials and authorities for audit, evaluation, or compliance or enforcement activities, under the conditions set forth in § 99.35 of the FERPA regulations.

Educational agencies and institutions must obtain a copy of the record of further disclosures maintained by a State or local educational authority or Federal official or agency and make it available in response to a parent's or eligible student's request to review the student's record of disclosures, as set forth in 34 CFR § 99.32(a)(4). This requirement is so that parents and eligible students may know which other officials have had access to their information.

Under 34 CFR § 99.32(a)(5), educational agencies and institutions must record the articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure of PII from a student's education records and the parties to whom information was disclosed under FERPA's "health or safety emergency exception" in 34 CFR § 99.36 agency or institution. This requirement is so that parents and eligible students may know what information has been disclosed in an emergency and to whom.

Further, the FERPA regulations require an educational agency or institution to enter into a written agreement with an organization conducting, for or on behalf of the educational agency or institution, a study to develop, validate, or administer predictive tests, administer student aid programs, or improve instruction. 34 CFR § 99.31(a)(6)(iii)(C). The written agreement requirement only applies if the educational agency or institution non-consensually discloses PII from education records to the organization conducting the study. The written agreement must: (1) specify the purpose, scope, and duration of the study and the PII from education records being disclosed; (2) require the organization conducting the study to use the PII from education records only to meet the purpose(s) of the study, as stated in the written agreement; (3) require the organization to conduct the study in a manner that does not permit personal identification of parents and students by anyone other than representatives of the organization with legitimate interests; and (4) require the organization to destroy all PII from education records when the information is no longer needed for the purpose(s) for which the study was conducted and specify the time period in which the information must be destroyed .

The requirement in FERPA (20 U.S.C. § 1232g(a)(5)(B) and 34 CFR§ 99.37) that educational agencies and institutions that elect to have a directory information policy must publicly notify parents and eligible students in attendance about the directory information policy is necessary in order that parents and eligible student may opt out of the disclosure of directory information, should they choose.

The information collection requirements are necessary to carry out the purposes of FERPA.

### **3. Consideration of Improved Information Technology.**

The advancement, and more common use, of computer systems have dramatically reduced the burden of producing the annual notification of rights required under the FERPA since it was enacted in 1974. Electronic systems also enable educational agencies and institutions to more easily create and maintain information necessary under FERPA's recordation requirements.

School officials are provided a model notification that can be adapted by educational agencies and institutions. The models are posted on the Department's Protecting Student Privacy website: <https://studentprivacy.ed.gov/resources/ferpa-model-notification-rights-elementary-secondary-schools> and <https://studentprivacy.ed.gov/resources/ferpa-model-notification-postsecondary-officials>. The Department's Privacy and Technical Assistance Center (PTAC) routinely responds to telephone and email inquiries from school officials (elementary/secondary as well as postsecondary), providing them with technical assistance on FERPA. The technical assistance often includes information on where to locate and download the model notifications. In addition, the Department annually notifies State educational agencies and local educational agencies (i.e., school districts) of their obligations under FERPA, as required by the Protection of Pupil Rights Amendment, 20 U.S.C. 1232h(c) (5)(C). The Department's annual notice provides a link to the model notification. This

greatly reduces the burden on educational agencies and institutions having to write the required notification.

Other than the use of computers to reduce the burden, there is no specific technology that would reduce the burden of written agreements required under FERPA. However, PTAC provides, and will continue to provide, technical assistance and guidance to those educational agencies and institutions that request assistance.

#### **4. Efforts to Identify Duplication.**

The provisions do not duplicate any other Federal requirements. No other agency has this information.

#### **5. Burden Minimization as Applied to Small Businesses.**

These regulations are consistent with the Administration's regulatory principles to minimize burden on small entities.

#### **6. Consequences of Less Frequent Data Collection.**

Should these collections of information under FERPA be conducted less frequently, the requirements of the Act would not be carried out.

#### **7. Special Circumstances Governing Data Collection.**

These information collection requirements are consistent with the guidelines in 5 CFR 1320.5(d)(2).

#### **8. Consultation Outside the Agency.**

The Department routinely consults in an informal fashion with stakeholders, particularly with educational agencies and institutions. A 60 day notice was published on September 26, 2017 (82 FR 44762). While two public comments were received, neither were substantive. A 30 day notice will be published.

#### **9. Payments or Gifts to Respondents.**

No gifts or payments are involved.

#### **10. Assurance of Confidentiality.**

FERPA requires that educational agencies and institutions protect the privacy of student's education records, including the privacy of the record of request for the student's education records that is required by FERPA's recordation requirements in 34 CFR § 99.32. As the respondents of the information collection requirements, officials at State educational authorities, school districts, postsecondary institutions, as well as certain Federal officials

that may have access to education records do not need assurance of confidentiality because the requirements are intended to advance the privacy rights of parents and eligible students.

**11. Questions of Sensitive Nature.**

FERPA does not address nor call for questions of a sensitive nature.

**12. Annual Hour Burden for Respondents/Record keepers**

**FERPA’s Annual Notification of Rights Requirement (34 CFR § 99.7)**

There are approximately 21,189 school districts, independent charter schools, and postsecondary institutions affected by the annual notification of rights requirement in FERPA (34 CFR § 99.7). We estimate that an average of .25 hours (15 minutes) per response is required for the annual notification of rights requirement. From administrative experience, we have determined that, at the elementary/secondary level, school districts (as opposed to individual schools) are the entities that typically issue the annual notification of FERPA rights. We are also including an additional number of independent charter schools that are not part of school districts. At the postsecondary level, it is the individual institutions that issue the notice. Following is a breakdown of school districts, charter schools, and postsecondary institutions:

No. School Districts &  
No. Independent Charter Schools: 16,606  
Burden Hours: x .25

Total Burden Hours = 4,151

No. Postsec. Inst.: 4,583  
Burden Hours: x .25

Total Burden Hours = 1,146

School District/Ind. Charter Schools Burden Hours: 4,151  
Postsec. Inst. Burden Hours: + 1,146  
Grand Total Burden Hours: 5,297

Since most educational agencies and institutions met major requirements during the early years after FERPA’s passage in 1974 and after publication of the revised regulations in 1988 with regard to notification of FERPA rights, the year-to-year cost is minimal.

**FERPA’s Written Agreement Requirement for Studies (34 CFR § 99.31(a)(6)(iii)(C)(1)-(4))**

20 U.S.C. § 1232g(b)(1)(F) permits educational agencies and institutions to non-consensually disclose PII from students’ education records to organizations conducting studies, for, or on

behalf of the educational agencies or institutions, to develop, validate, or administer predictive tests; administer student aid programs; or, improve instruction. If an educational agency or institution discloses PII from education records under this exception to FERPA's written consent requirement, it must enter into a written agreement with the organization that is conducting the study (34 CFR § 99.31(a)(6)(iii)(C)(1)-(4)). The written agreement must specify the purpose(s), scope, and duration of the study or studies and the information to be disclosed; require the organization to use PII from education records only to meet the purpose(s) of the study, as stated in the written agreement; require the organization to conduct the study in a manner that does not permit personal identification of parents and students by anyone other than representatives of the organization with legitimate interests; and, require the organization to destroy all PII from education records when the information is no longer needed for the purpose(s) for which the study was conducted, and specify the time period for destruction of the information.

As previously discussed with OMB when we submitted our last two Information Collection statements, the Department does not have any information on how many educational agencies and institutions actually disclose information to organizations under this exception. Therefore, we are unable to estimate the additional burden, if any, for the requirements in § 99.31(a)(6)(ii)(C). However, it is our opinion that the burden of entering into written agreements to comply with this exception is unlikely to be significant because most educational agencies and institutions already specify the terms under which PII can be used when it is disclosed to organizations for these types of studies. The Department believes the benefits of the written agreement outweigh the burden because it will ensure better compliance with FERPA and provide clarity for both researchers and educational agencies and institutions about the restrictions and use of PII disclosed under § 99.31(a)(6) for studies.

Without more information on the practices of schools in this regard, we have no basis on which to accurately estimate the specific burden hours for this recordkeeping requirement. While we do not know the number of times an educational agency or institution would enter into an agreement with an organization to conduct a study for or on its behalf, we assume that the number would vary greatly from year to year, depending on need and budgets. However, from administrative experience, we understand that many educational agencies and institutions already utilize business contracts with third parties to conduct these studies and through these contracts already specify the terms under which PII can be used when it is disclosed to organizations for these types of studies. Utilizing business contracts makes it less burdensome to meet the requirements of this provision in FERPA. As is customary, the Department provides technical assistance to educational agencies and institutions with regard to what information needs to be included in the contract or written agreement in order to meet the FERPA requirements.

### **FERPA's Recordkeeping Requirement (34 CFR § 99.32)**

In 2010, we informally contacted eight school officials – three officials at elementary/secondary school districts, one official at an elementary school, and four officials at postsecondary institutions – to find out about their individual recordkeeping practices.



Most of the schools we contacted used a paper-based system for recordkeeping, while some of the postsecondary institutions used both paper-based and electronic. From our informal review, it appears that recordkeeping is typically done at the individual elementary and secondary school level (as opposed to the school district level) and the individual postsecondary institution level. As a result, it was estimated that an average of .0833 hours (5 minutes) per disclosure is required for the recordkeeping requirement. The average number of disclosures of individual student records per year was based on responses from the eight school officials. (Based on the type and size of the school, the number of releases varies.)

It was not clear that schools recognize that FERPA requires that they record non-consensual disclosures made of PII from students' education records to local and State educational authorities and certain Federal officials and agencies, such as when a school non-consensually discloses PII from education records on all students in attendance to a State education department on the elementary/secondary level or to the State postsecondary educational authority on the college level. Without more information on the practices of schools in this regard, it is difficult to accurately estimate the specific burden hours for this recordkeeping requirement. However, we assumed that many of these schools, especially at the postsecondary level and more urban school districts, utilize computerized methods to record disclosures, which would make it less burdensome to record disclosures for large numbers of students. Where there are large numbers of disclosures and no computerized method is used to indicate that a disclosure occurred, schools have been advised that they may utilize a single notice about the mass disclosure. When a parent or eligible student requests access to the school's record of disclosures of PII from the student's education records, the school may provide the notice with the information concerning the disclosure to the parent or eligible student at the time of the school's response to that request, thereby minimizing the burden on the school to maintain the record of disclosure in each affected student's education records. However, because these recordations are not exempt from FERPA's recordkeeping requirement, we have included an estimate for the burden of recording disclosures of all students in attendance to local and State educational authorities and certain Federal officials and agencies. We estimate that schools must share this information with local and State officials and certain Federal officials and agencies twice a year and estimate that it would take schools 1 hour to either make the recording via their computer system or develop a notation and make it available to parents or eligible students asking to inspect this record. As explained elsewhere, it is our administrative experience that few parents and eligible students request to see this record.

For the general recordkeeping requirement of 34 CFR § 99.32(a) for recordation of individual disclosures, the following is a breakdown of individual schools (public elementary, secondary, or combined) and postsecondary institutions:

No. of Schools:	98,176
<u>Average No. of Disclosures: x</u>	<u>192</u>
# Of Responses	18,849,792
 <u>Hours/Response: x</u>	 <u>.0833</u>

Burden Hours 1,570,188

No. of Postsec. Inst.: 4,583

Average No. of Disclosures: x 192

# of Responses 879,936

Hours/Response: x .0833

Burden Hours 73,299

Elementary/Secondary School Burden Hours: 1,570,188

Postsec. Inst. Burden Hours: + 73,299

Total Burden Hours for recordation  
of individual disclosures: 1,643,487

For the recordkeeping requirement for disclosures of all students in attendance to local and State educational authorities and Federal officials and agencies listed in 34 CFR § 99.31(a) (3), the following is a breakdown of individual schools (public elementary, secondary, or combined) and postsecondary institutions:

No. of Schools: 98,176

Average No. of Disclosures: x 2

# of Responses 196,352

Hours/Response: x 1

Burden Hours 196,352

No. of Postsec. Inst.: 4,583

Average No. of Disclosures: x 2

# of Responses 9,166

Hours/Response: x 1

Burden Hours 9,166

Elementary/Secondary School Burden Hours: 196,352

Postsec. Inst. Burden Hours: + 9,166

Total Burden Hours for recordation

of disclosures of all students: 205,518

<b>Total Burden Hours for recordation of individual disclosures:</b>	<b>1,643,487</b>
<b>Total Burden Hours for recordation of disclosures of all students:</b>	<b><u>205,518</u></b>

**Total Burden Hours for Recordation 1,849,005**

The number of school districts and the number of postsecondary institutions subject to FERPA is based on the number of public school districts and the number of Title IV postsecondary institutions, as reported in the National Center for Education Statistics' (NCES') Digest of Education Statistics. See [http://nces.ed.gov/programs/digest/d07/tables/dt07\\_005.asp](http://nces.ed.gov/programs/digest/d07/tables/dt07_005.asp). The number of affected schools reported to the Office of Management and Budget (OMB) in previous years was higher, but we believe this number that is based on NCES' count is more accurate.

Local and State educational authorities and Federal officials and agencies listed in 34 CFR § 99.31(a)(3) that maintain records of redisclosures of PII from education records must make such redisclosure records available, upon request, to the educational agency or institution from which the PII from education records originated, so that the agency or institution can make that record available to a parent or eligible student who has asked to inspect and review it. Our estimate is that two educational authorities or agencies in each State and the District of Columbia (one for K-12 and one for postsecondary) and the Department itself, for a total of 103 authorities, will maintain the required records of redisclosures. It is also estimated that it will take .25 hours (15 minutes) per disclosure to locate and print a record of disclosures for this requirement. Based on our administrative experience over the years, we assume that few parents and students request this information and, therefore, use an estimate that one tenth of one percent of a total of 68.1 million students will make such a request each year, or 68,076 requests. This translates to an average of 3 disclosures per school. (We divided total number of schools by total number of requests.) The total number of disclosures by State and Federal educational authorities will be the same as that calculated for schools.

No. of Schools & Postsec. Inst.:	21,189
<u>Average No. of Disclosures:</u>	<u>x 3</u>
# of Responses	63,567

<u>Hours/Response:</u>	<u>x .25</u>
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Burden Hours	15,892
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<u>Average No. of Disclosures by State &amp; Fed. Ed. Authorities:</u>	<u>63,567</u>
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Hours/Response:	x	.25
Burden Hours		15,892
School Burden Hours:		15,892
State & Fed. Burden Hours:	+	15,892
<b>Total Burden Hours</b>		<b>31,784</b>

We estimate that two educational authorities or agencies in each State and the District of Columbia (one for K-12 and one for postsecondary) and the Department itself, for a total of 103 authorities, will maintain the required records of redisclosures. (We anticipate that educational agencies and institutions will record under 34 CFR § 99.32(b)(1) any further disclosures made by the other Federal officials listed in 34 CFR § 99.31(a)(3), the U.S. Comptroller General and the U.S. Attorney General, as is currently required for redisclosures made by other parties on behalf of the educational agency or institution. See 34 CFR § 99.32(b)(1).) We estimate further that these authorities will need to record two redisclosures per year from their records. We estimate that an average of .0833 hours (5 minutes) per disclosure is required for this recordkeeping requirement. We also assume for purposes of this analysis that State educational authorities and the Department already have software that will allow them to record these disclosures electronically.

No. of St. & Fed. Edu. Authorities:		103
Average No. of Disclosures:	x	2
# of Responses		206
Hours/Response:	x	.0833
Burden Hours		17

**FERPA’s Written Agreement Requirement for Designating an Authorized Representative (34 CFR § 99.35(a)(3))**

An agency headed by an official listed in 34 CFR § 99.31(a)(3) is required to use a written agreement (34 CFR § 99.35(a)(3)) when non-consensually disclosing PII from education records to an authorized representative, other than an employee, 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. In the written agreement, the State or local educational authority, or applicable Federal agency or official must: (1) designate as an authorized representative the individual or entity to whom the disclosure is made; (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, with sufficient specificity, the activity for which the PII from education records will be used to make clear that it legitimately fits within the exception of 34 CFR §§ 99.31(a)(3) and 99.35; (5) require the authorized representative to destroy PII from education records when the information is no longer needed for the purpose for which it was disclosed; (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 laws, to protect the PII from education records from further unauthorized disclosure and use. We estimate that the burden for States 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 educational authorities may handle the agreements up to 10 times per year with an estimated time of 4 hours per agreement.

In addition, the burden for large LEAs and postsecondary educational authorities (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 educational authority 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 educational authorities 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: x</u>	<u>4</u>
Burden Hours	4,120

No. of Large LEAs & Post. Edu. Authorities:	1,452
<u>Average No. of Disclosures:</u>	<u>x 1</u>
# of Responses	1,452
<u>Hours/Response: x</u>	<u>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

**FERPA’s Directory Information Notification Requirement (34 CFR § 99.37)**

We estimate that the burden on educational agencies and institutions to notify parents and eligible students in attendance about their directory information policy would be minimal, as most educational agencies and institutions include the directory information notice as part of their annual notification of FERPA rights (34 CFR § 99.7).

**FERPA’s Notification Requirement Concerning Compliance with a Judicial Order or Lawfully Issued Subpoena (34 CFR § 99.31(a)(9))**

We estimate that the burden on educational agencies and institutions would be minimal, as FERPA simply requires that a reasonable effort be made to notify parents or eligible students before complying with certain judicial orders and lawfully issued subpoenas and does not dictate the manner in which notification must be made. The Department routinely provides technical assistance to educational agencies and institutions that request assistance with this requirement, but we have no way of knowing how many educational agencies and institutions receive judicial orders and lawfully issued subpoenas. Therefore, we are unable to estimate any relevant burden.

**GRAND TOTAL**

**Total Number of Respondents: 105,399    Total Number of Responses: 20,293,021**  
**Total Number of Burden Hours: 1,914,593**

This is a list of the regulatory requirements which is provided with more detailed description (above) in the Supporting Statement, A12. Each requirement lists the burden for schools, institutions, and/or State or local educational authorities with the number of responses and total burden hours.

Remove	IC Title	Status	Responses	Hours	Dollars	Document Type	Form No.	Form Name
	Annual Notification of Rights Requirement (Section 99.7) for School Districts	No Change	16,606	4,151	0	Other Regulatory Requirement		
	Annual Notification of Rights Requirement (Section 99.7) for Postsecondary Institutions	No Change	4,582	1,146	0	Other Regulatory Requirement		
	FERPA Recordkeeping Requirement (99.32) for Schools	No Change	18,849,792	157,188	0	Other Regulatory Requirement		
	FERPA Recordkeeping Requirement (Section 99.32) for Postsecondary Institutions	No Change	879,936	73,299	0	Other Regulatory Requirement		
	FERPA Section	No Change	196,352	196,352	0	Other Regulatory		

	99.32 Recordkeeping Requirement for Disclosures (Schools) to § 99.31(a)(3) entities					Requirement		
	FERPA Section 99.32 Recordkeeping Requirement for Disclosures (Postsecondary Institutions) to § 99.31(a)(3) entities	No Change	9,166	9,166	0	Other Regulatory Requirement		
	FERPA Section 99.32(a)(4) Regulatory Requirement for Schools and Postsecondary Institutions	No Change	63,567	15,892	0	Other Regulatory Requirement		
	FERPA Section 99.32(a)(4) for re-disclosure by § 99.31(a)(3) entities	No Change	63,567	15,892	0	Other Regulatory Requirement		
	FERPA Section 99.32(b)(2) for recordation by § 99.31(a)(3) entities	No Change	206	17	0	Other Regulatory Requirement		
	FERPA Section 99.35 (a) (3) For State educational authorities	No Change	1030	4120	0	Other Regulatory Requirement		
	FERPA Section 99.35(a) (3) For large LEAs and postsecondary educational authorities	No Change	1452	5808	0	Other Regulatory Requirement		

Total responses under this ICR: 20,293,021

Total burden hours under this ICR: 1,914,593

### 13. Annual Cost Burden to Respondents

The total for the capital and start-up cost components of both information collection requirements is zero. The information collection requirements under FERPA do not require the purchase of any capital equipment nor create any start-up costs. Computers and word processing software used to complete this information collection are part of the respondents' customary and usual business or private practices, and therefore are not included.

The total for operation and maintenance for this information collection is zero. The information collection does not create costs associated with generating, maintaining, and disclosing or providing the information that is not already identified in question 12 of this supporting statement.

**14. Estimated Annual Cost to the Federal Government.**

No measurable percentage of staff time is devoted to assisting educational agencies and institutions in either of these information collection requirements. With regard to the annual notification requirement, as explained in the response to question 3, the Department posts model notifications (one for elementary/secondary and one for postsecondary) on its website. The model can be downloaded and easily be adapted by schools for use. With regard to the recordkeeping requirements, staff routinely provides technical assistance on other aspects of the law, but the recordkeeping requirements have become routine with schools and appear to not be an issue of concern.

**15. Reasons for Changes to Burden Hours Estimated**

This is an extension of a previously approved information collection request. There are no changes in burden and responses.

**16. Collection of Information with Public Results.**

The results of the collection of information will not be published.

**17. Approval to Not Display Expiration Date.**

The Department is not seeking this approval.

**18. Exception to the Certification Statement.**

The Department is not requesting any exceptions to the “Certification for Paperwork Reduction Act Submissions.”