

## § 99.32(b)(2) –

Final regulations added a requirement (§ 99.32(b)(2)) that State and local educational authorities and Federal officials listed in § 99.31(a)(3) maintain a record of further disclosures these parties may make of personally identifiable information from education records if the educational agency or institution does not do so. While the Department did not officially seek comments on any information collection activities in the March 28, 2008, NPRM, we did receive comments on some of these activities. In the NPRM, we specifically noted that the Department was interested in relieving any administrative burdens associated with recording disclosures of education records and, therefore, invited public comments on whether a State educational agency (SEA), the Department, or other authority or official listed in § 99.31(a)(3) should be allowed to maintain the record of the redisclosures it makes on behalf of an educational agency or institution under § 99.32.

Several commenters, including officials representing State departments of education, stated that an SEA (or other authority or official listed in §99.31(a)(3)) should be responsible for maintaining the record of disclosure required under § 99.32 when it rediscloses information on behalf of educational agencies and institutions. The commenters stated that requiring each educational agency or institution, such as school districts, to record each redisclosure made by an SEA or other State educational authority on its behalf imposes an unacceptable recordkeeping burden on school districts and is impractical for State educational authorities to adhere to in making further disclosures on behalf of the agency or institution.

In response to these comments, we revised § 99.32 to require the State and local educational authorities and Federal officials listed in § 99.31(a)(3) to maintain the record of further disclosures if the educational agency or institution does not do so and make it available to the educational agency or institution upon request. We agree that by requiring State and Federal authorities and officials to record their redisclosures in these circumstances school districts will have less total paperwork burden because schools will not have to comply with the recordkeeping requirement in these instances.

State educational authorities and Federal officials listed in §99.31(a)(3) will incur new information collection burdens if they maintain the record of redisclosure for the educational agency or institution on whose behalf they redisclose education records under the regulations. 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 §99.32(b)(1) any further disclosures made by the other Federal officials listed in §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 new 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
<u>Average No. of Disclosures:</u>	<u>x 2</u>
# of Responses	206
<u>Hours/Response:</u>	<u>x .0833</u>
Burden Hours	17

General Recordkeeping Requirement § 99.32(a)	1,660,856
New Recordkeeping Requirement § 99.32(a)(4)	30,944
<u>New Recordkeeping Requirement § 99.32(b)(2)</u>	<u>17</u>
Grand Total Recordkeeping Burden	1,691,817