

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Office of Intergovernmental and Interagency Affairs, Department of Education.

ACTION: Notice of an altered system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this notice of an altered system of records entitled "Presidential Scholars Program Files and PSAonline Application System (18-06-03)," last published in the **Federal Register** on December 27, 1999 (64 FR 72392-72393). The system contains information about the current and former candidates and finalists in the Presidential Scholars recognition program, including the name, Social Security number, address, phone number, and other biographical information provided by the student, such as SAT/ACT scores, school transcripts, and essays. A new component, the "PSAonline" application system, which will be made available to the public in 2004, replicates exactly the content of the existing paper-based application system, but allows applicants and school staff to submit applications electronically through links on the Department's Web site. The paper-based option for submitting applications remains available.

DATES: The Department seeks comments on the altered system of records described in this notice, in accordance with the requirements of the Privacy Act. We must receive your comments on or before January 2, 2004.

The Department filed a report describing the revisions to the system of records covered by this notice with the Chair of the Committee on Governmental Affairs of the United States Senate, the Chair of the Committee on Government Reform of the United States House of Representatives, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on November 26, 2003. The changes made in this notice will become effective on the later of— (1) the expiration of the 40-day period for OMB review on January 5, 2004, or (2) January 2, 2004, unless the system of records requires changes as a result of public comment or OMB review. The Department will publish any changes resulting from public comment or OMB review.

ADDRESSES: Address all comments about this altered system of records to Melissa Apostolides, Office of Intergovernmental and Interagency Affairs, 400 Maryland Avenue, SW., room 5E229, Washington, DC 20202-3521. Telephone: 202-205-0512. If you prefer to send your comments through the Internet, use the following address: comments@ed.gov.

You must include the term "U.S. PSP" in the subject line of the electronic message.

During and after the comment period, you may inspect all public comments about this notice in room 5E229, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8 a.m. and 4:30 p.m., eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Melissa Apostolides. Telephone: (202) 205-0512. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a) requires the Department to publish in the **Federal Register** this notice of an altered system of records maintained by the Department. The Department's regulations implementing the Privacy Act are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act applies to information about an individual that contains individually identifiable information that is retrieved by a unique identifier associated with each individual, such as a name or Social Security number. The information about each individual is called a "record" and

the system, whether manual or computer-based, is called a "system of records." The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports for OMB whenever the agency publishes a new system of records or makes a significant change to an established system of records. Each agency is also required to send copies to the Chair of the Senate Committee on Governmental Affairs and the Chair of the House Committee on Government Reform. These reports are intended to permit an evaluation of the probable or potential effect of the proposal on the privacy or other rights of individuals.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498, or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Dated: November 26, 2003.

Laurie M. Rich,

Assistant Secretary for Intergovernmental and Interagency Affairs.

For the reasons discussed in the preamble, the Assistant Secretary for the Office of Intergovernmental and Interagency Affairs of the U.S. Department of Education publishes a notice of an altered system of records to read as follows:

18-06-03

SYSTEM NAME:

Presidential Scholars Program Files and PSAonline Application System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

U.S. Presidential Scholars Program, Community Services, Partnerships and Recognition Programs Team, Office of Intergovernmental and Interagency Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-3521.

American College Testing, Inc.,
Recognition Program Services, 301 ACT
Drive, Iowa City, Iowa 52243-4030.

General Dynamics, Information
Technology Service Division, 3040
Williams Drive, Suite 200, Fairfax,
Virginia, 22031.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals who are participants in the U.S. Presidential Scholars Program (the program).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of information about program candidates, including name, date of birth, Social Security number, address, e-mail address, high school, biographical information provided by the students such as work experience and awards received, SAT and ACT scores, school transcripts, and essays, as well as name and contact information for the teacher the candidate is nominating for the Department's Teacher Recognition Award. The system will also include the unique user identification and password issued to system users by the Department of Education (Department) in its invitation package (application to the program is by invitation only.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11155 (1964), as amended by Executive Order 12158 (1979).

PURPOSE(S):

The information in this system will be used to— (1) Determine the eligibility of candidates and review their applications in order to determine program semifinalists and finalists on an annual basis; (2) develop and implement the program's annual recognition component; and (3) carry out the authorizing Executive Order 11155, as amended by Executive Order 12158 (1979).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. The Department may make disclosures on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Computer Matching and Privacy Protection Act of 1988, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, tribal, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulations if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulations, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, Executive order, rule, regulations, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties described in paragraphs (a)(i) through (v) is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or
(ii) Any Department employee in his or her official capacity; or
(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed or been requested to provide or arrange for representation for the employee;
(iv) Any Department employee in his or her individual capacity if the agency has agreed to represent the employee; or
(v) The United States if the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Adjudicative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear or to an individual or entity designated by the Department or otherwise empowered to resolve or

mediate disputes is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, Counsels, Representatives, and Witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, local, tribal, or foreign agency maintaining civil, criminal, or other relevant enforcement or other pertinent records or to another public authority or professional organization, if necessary, to obtain information relevant to a decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, tribal, or foreign agency or other public authority or professional organization in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint, or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline, or competence determination proceedings. The disclosure may be made only during the course of the proceeding.

(6) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the DOJ and the OMB if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(7) *Disclosure to the DOJ.* The Department may disclose records to the DOJ to the extent necessary for

obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the program covered by this system.

(8) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(9) *Congressional Member Disclosure.* The Department may disclose information to a Member of Congress from the record of an individual in response to an inquiry from the Member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(10) *Routine Programmatic Purposes.* The Department may disclose records from this system of records in order to promote the selection and recognition of students and the visibility of the program. In order to honor participants and finalists (Scholars) pursuant to programmatic requirements, disclosures of records from this system will be made to the following entities for the purposes specified:

(a) *Disclosures to the Review Committee and the Commission on Presidential Scholars.* The program will provide copies of each candidate's complete application package to members of the program's review committee for selection of semifinalists and complete copies of each semifinalist's application package to the Commission on Presidential Scholars (Commission) for selection of the Scholars and for in-state recognition ceremonies held for semifinalists and Scholars.

(b) *Disclosures to the General Public Announcing the Program's Candidates, Semifinalists, and Scholars.* The program will provide the name, State, town, and school name of each candidate, semifinalist, and Scholar on the Presidential Scholars Program section of the Department's Web site.

(c) *Disclosures to the General Public of the Annual Presidential Scholars Yearbook.* For recognition purposes as well as informational and, on rare occasions, research requests, the program will provide copies of the Presidential Scholars Yearbook, which includes student photos, names, school, city, State, college of choice, and student-written essays, to Scholars, families, teachers, Commissioners,

sponsors, potential candidates, researchers, and other interested parties. Due to limited numbers, copies are provided first to program participants and, if additional copies remain, in response to other inquiries.

(d) *Disclosures to Contractors for Production of Program Recognition Materials and the Presidential Scholars Yearbook.* The program will provide records to contractors for the printing of certificates, the engraving of Scholar medallions, and the printing of the Presidential Scholars Yearbook. The Executive order states that Scholars are to receive medallions, and occasionally the Administration wishes to provide certificates signed by the President.

(e) *Disclosures to Contractors and College-age Interns to Arrange Scholar Accommodations, Transportation, and Other Services.* The program may provide records to area vendors in preparation for the program's "National Recognition Week," held annually in Washington, DC, each June. During that week, Scholars travel to the Nation's Capital at the program's expense to participate in educational and celebratory activities. At the same time, former Scholars return to the program as "Advisors" to assist with the program during National Recognition Week. These Advisors also receive information relevant to the Scholars assigned to them.

(f) *Disclosures to National, State, and Local Media To Publicize the Scholars and Respond to Press Inquiries About Them.* Records are provided to national, State, and local media for the purpose of publicizing the Scholars and responding to press inquiries.

(g) *Disclosures to the White House and Federal Agencies for Briefings, Speechwriting, or To Obtain Security Clearances.* Records are provided to the White House and Federal agencies for the purpose of speechwriting and briefings for officials addressing the Scholars and guests at recognition events or for security clearances at events attended by Government officials or in buildings with limited access.

(h) *Disclosures to National, State, and Locally Elected Officials and Their Staff To Notify Them of Candidates, Semifinalists, and Scholars in their States or Districts and To Assist With Other Activities To Recognize These Individuals.* Records are provided for the purpose of notifying elected officials of candidates, semifinalists, and Scholars in their States or districts and to assist with preparing congratulatory letters, certificates, and other honors or scheduling events or office visits in Washington, DC, or at home.

(i) *Disclosures to State and Local Education Officials To Notify Them of Candidates, Semifinalists, and Scholars in Their States, Districts, or Schools.* Records are provided to Chief State School Officers, Superintendents of school districts, principals, and guidance counselors for the purpose of notifying them of the candidates, semifinalists, and Scholars in their States, districts, or schools.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in hard copy filed in lockable standard filing cabinets; on access-controlled personal computers; and in the Network Operations Center at the General Dynamics host site.

RETRIEVABILITY:

The data are retrieved by name, Social Security number, State, high school, and year of selection. Various reports on multiple candidates, semifinalists, and Scholars can also be run.

SAFEGUARDS:

All physical access to the Department site and the sites of Department contractors where this system of records is maintained is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer systems employed by the Department and its contractors offer a high degree of security against tampering and circumvention. These security systems limit data access to Department and contract personnel on a "need to know" basis and control individual users' ability to access and alter records within the system. All users of these systems are given a unique user ID, and interactions by individual users with the system are recorded.

In accordance with the Privacy Act, all candidates or their legal guardians, if they are minors, must read a privacy advisory statement. Candidates or their legal guardians also must provide a signature affirming their candidacy and authorizing the release of specific information in relation to the program. PSAonline will use assigned electronic identifications and passwords for these authorizations. Applicants or their legal guardians will sign the program's

release form electronically. The program will issue unique user identifications and passwords to all system users (candidates, legal guardians, school staff, and principals) in their invitation packets. Users will access the system by entering their assigned user identifications and passwords, and the system will validate the user and his or her role (candidate, legal guardian, administrator) against the database. If invalid information is entered, an error message will be displayed, and access will be denied. Users may edit their passwords after they have logged in using the federally assigned user identifications and passwords. Access to various parts of the system and the application is restricted based on user role and level of authorization.

RETENTION AND DISPOSAL:

Files are retained for four years in order to verify yearbook and alumni publications and to choose current Scholars as future Advisors to the Commission. In accordance with the Department of Education's Records

Disposition Schedules (ED/RDS, Part 5, Item 6), both paper and electronic files are destroyed in four-year blocks when the most recent record is four years old.

SYSTEM MANAGER AND ADDRESS:

Executive Director, U.S. Presidential Scholars Program, Community Services, Partnerships and Recognition Programs Team, Office of Intergovernmental and Interagency Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-3521.

NOTIFICATION PROCEDURE:

If you wish to determine if you have a record in this system, provide the system manager with your name, date of birth, and Social Security number. Your request must meet the regulatory requirements of 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURE:

If you wish to gain access to your record in this system, provide the system manager with your name, date of birth, and Social Security number. Your

request must meet the regulatory requirements of 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURE:

If you wish to contest the content of a record, contact the system manager. Your request must meet the regulatory requirements of 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information is obtained from American College Testing and the College Board/Educational Testing Service, individual candidates, their legal guardians if they are minors, and school officials (principals, teachers, and guidance counselors) in public and private secondary institutions attended by the candidates.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

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