

18-05-17 Investigatory Material Compiled for Personnel Security and Suitability Purposes

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March 15, 2004

18-05-17

SYSTEM NAME:

Investigatory Material Compiled for Personnel Security and Suitability Purposes.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Security Services, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202.

U.S. Office of Personnel Management, Federal Investigations Processing Center, P.O. Box 618, 1137 Branchton Road, Boyers, PA 16018-0618.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants seeking employment with the Department of Education (Department), former and current employees of, and other persons and entities doing business with, the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain investigative information pertaining to current and former Department employees, current and former contractor personnel, and current employees of entities making offers to the Department for purposes of doing business. This information regards individuals' character, conduct, and loyalty to the United States as relevant to their association with the Department. These records may, as appropriate to the individual being investigated, include the following types of information:

- (1) Documentation as to his or her arrests and convictions for violations of the law.
- (2) Reporting as to interviews held with the individual, his or her present and former supervisors, co-workers, associates, neighbors, educators, etc.
- (3) Correspondence relating to adjudication matters involving the individual.
- (4) Reports of inquiries made of law enforcement agencies for information about the individual contained in the agencies records.
- (5) Information provided by organizations having association with the individual, such as employers, educational institutions attended, professional or fraternal or social organizations to which the individual is or was a member, etc.
- (6) Reports of action following an Office of Personnel Management (OPM) investigation or a Federal Bureau of Investigation Section 8(d) full field investigation.
- (7) Other information developed from the previous sources.

Note 1. To the extent that the Department of Education has records of a personnel investigative nature that come from OPM or its contractors, they are covered by OPM/CENTRAL-9, Personnel Investigations Records, and are not covered by this system notice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 10450, 10577, and 12968; as amended.

PURPOSE(S):

Records in this system are maintained to provide the Office of Management and other responsible Department officials with information to assist them in making individual personnel determinations concerning suitability for Federal employment, security clearances, access to classified information or restricted areas, and evaluations as to acceptability for performance under Federal contracts or other agreements with the

Federal Government. Incidental to this purpose, these records may also be disclosed to other Federal and non-Federal investigatory agencies to protect the public or Federal interest, or both.

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

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

(1) Program Purpose: To public or private sources to the extent necessary to obtain information to be included in this system of records.

(2) To officials and employees of a Federal, State, or local governmental entity in response to its request in connection with the issuance of security clearances or the conduct of security or suitability investigations of individuals seeking employment, licensure, other benefits, or to perform contractual services, or to otherwise associate with the governmental entity.

(3) To a Federal, State, local, or foreign entity or other public authority responsible for the investigation, prosecution, enforcement, or implementation of a statute, rule, regulation, or order, when a record on its face or in combination with any other information indicates a violation or potential violation of law (whether civil, criminal, or regulatory in nature) if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility of the receiving entity. It is Office of Management policy not to disclose records under this routine use that pertain to those questions for which the Office of Management has promised confidentiality under Standard Form 85P, Questionnaire for Public Trust Positions.

(4) 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.

(5) Litigation Disclosure. To parties pertaining to litigation disclosure as follows:

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

(i) The Department or any of its components.
(ii) Any Department employee in his or her official capacity.
(iii) Any employee of the Department in his or her official capacity where the Department of Justice (Justice) has agreed to provide or arrange for representation of the employee.

(iv) Any employee of the Department in his or her individual capacity where the Department has agreed to represent the employee.

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) Disclosure to the Department of Justice (DOJ). If the Department determines that disclosure of certain records to the DOJ or attorneys engaged by DOJ is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to DOJ.

(c) If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, individual, or entity designated by the Department or otherwise empowered to resolve disputes is relevant and necessary to the administrative litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) If the Department determines that disclosure of certain records to an opposing counsel, representative, or witness in an administrative proceeding is relevant and necessary to the litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the counsel, representative, or witness.

(6) Freedom of Information Act (FOIA) Advice Disclosure. To the Department of Justice for the purpose of obtaining advice regarding the releasability of records maintained in this system of records under the FOIA and the Privacy Act of 1974.

(7) Congressional Member Disclosure. The Department may disclose records 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 the individual. The member's right to the information is no greater than the right of the individual who requested it.

(8) Disclosure for Use by Other Law Enforcement Agencies. The Department may disclose information to any Federal, State, local or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, investigative, or prosecutorial responsibility within the receiving entity's jurisdiction. Under this routine use, the Department may also disclose information to Federal intelligence agencies for use in intelligence activities.

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

STORAGE:

Records are maintained in secured space either in locked lockers, in a room accessible by access control card; or in fire resistant safes with manipulation-proof combination locks, and in a computer database.

RETRIEVABILITY:

Records are alphabetically indexed by name of the individual subject of the file. Retrieval is made by the name, date of birth, and social security number of the individual on whom they are maintained.

SAFEGUARDS:

Folders are maintained in secured space in locked lockers, in a room accessible by access control card, or in fire resistant safes with manipulation proof combination locks. All records, including those records that are maintained on the computer database, are in limited access rooms. All employees are required to have an appropriate security clearance before they are allowed access, on a "need-to-know" basis, to the records. Computer databases are kept on a local area network that is not connected to any outside network including the Internet. Database accessibility is restricted to hard wire network connection from within the office or via modem. Authorized log-on codes and passwords prevent unauthorized users from gaining access to data and system resources. All users have unique log-on codes and passwords. The password scheme requires that users must change passwords every 90 days and may not repeat the old password. Any individual attempting to log on who fails

is locked out of the system after three attempts. Access after that time requires intervention by the system manager.

RETENTION AND DISPOSAL:

Most background investigative records are maintained no later than 5 years after separation or transfer of employee or no later than 5 years after contract relationship expires, whichever is applicable in accordance with General Records Schedule 18, Item 22. Reports of background investigations that were conducted under delegated authority from the Office of Personnel Management by the Office of Inspector General are retained for 15 years after the last investigative activity, except for investigations involving potentially actionable issue(s), which are maintained for 25 years after the last investigative activity. The records are disposed of by electronic erasure or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Security Services, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W229, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If an individual wishes to determine whether a record exists regarding him or her in this system of records, the individual must provide the system manager with his or her name, date of birth, social security number, signature, and the address to which the record information should be sent. Requests for notification about an individual must meet the requirements of the regulations in 34 CFR 5b.5.

RECORD ACCESS PROCEDURE:

If an individual wishes to gain access to a record in this system, he or she must contact the system manager and provide information as described in the notification procedure.

CONTESTING RECORD PROCEDURE:

If an individual wishes to change the content of a record in the system of records, he or she must contact the system manager with the information described in the notification procedure, identify the specific item or items to be changed, and provide a written justification for the change, including any supporting documentation. Requests to amend a record must meet the requirements of the regulations in 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

- Information contained in this system of records is obtained from:
- (a) Investigative and other record material furnished by other Federal entities, other departmental components, State, local, and foreign governments;
 - (b) Applications and other personnel and security forms;
 - (c) Personal investigation, written inquiry, interview, or the electronic accessing of computer databases of sources, such as the OPM system of records known as Personnel Investigations Records (OPM/Central-9), employers, educational institutions, references, neighbors, associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, newspapers, magazines, periodicals, and other publications; and
 - (d) Confidential sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

As indicated in 34 CFR 5b.11, individuals will be provided information from this record system unless, in accordance with the provisions of 5 U.S.C. 552a(k)(5)--(1) Disclosure of that information would reveal the identity of a source who furnished information to the Government under an express promise that the

identity of the source would be held in confidence; or (2) The information was obtained prior to September 27, 1975 and disclosure of that information would reveal the identity of a source who provided information under an implied promise that the identity of the source would be held in confidence.