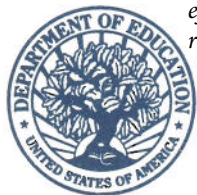


Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION



June 3, 2011

Dear Colleague,

The Office of Migrant Education (OME) has recently received several questions regarding whether States may grant access to the Migrant Student Information Exchange (MSIX) to grantees of the High School Equivalency Program (HEP), the College Assistance Migrant Program (CAMP) or the Migrant Head Start Program (Head Start).

The MSIX is a federal system of record and as such is subject to the provisions of the Privacy Act of 1974. The MSIX System of Records Notice (SORN) describes the entities that may have access to MSIX information without parental consent. Specifically, the SORN states, "*The Department may disclose a record in this system of records to authorized representatives of State education agencies (SEAs), local education agencies (LEAs), and other MEP local operating agencies (LOAs) to facilitate one or more of the following for a student: (a) participation in the MEP, (b) enrollment in school, (c) grade or course placement, (d) credit accrual, and (e) unique student match resolution.*" The SORN does not permit the Department to disclose MSIX records without consent to grantees of the HEP or CAMP or Head Start programs for purposes of enrolling or recruiting migratory children for these programs.

Therefore, States may not grant MSIX user names and passwords to HEP/CAMP/Head Start grantees and must immediately disable any access to HEP/CAMP/Head Start grantees that has been previously provided. Failure to do so would violate provisions in the Privacy Act and could cause potential harm to the Department.

However, if a State or its local operating agency (LOA) has obtained expressed written consent in accordance with the specific requirements within 34 CFR 5b.9 from a student(s) or their parent(s) to release their MSIX record to HEP/CAMP/Head Start grantees, the State or LOA may provide the HEP/CAMP/Head Start grantees a copy of the MSIX consolidated record of the student for whom the State/LOA has obtained written consent. In no instance may a State or LOA give a HEP or CAMP or Head Start grantee direct access to MSIX to obtain the student's record.

If you have questions regarding this letter, please contact Jennifer K. Dozier at (202) 205-4421. We appreciate your continued support of the records exchange program.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Meyertholen".

Patricia Meyertholen
Group 1 Leader
Office of Migrant Education
Office of Elementary and Secondary Education