

4000-01-U

DEPARTMENT OF EDUCATION

34 CFR Part 50

RIN 1845-AA21

Performance Standards for Retention of Electronic Records
in the Student Financial Assistance Programs

AGENCY: Department of Education.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Secretary will propose rules to implement
section 101(d) of the Electronic Signatures in Global and
National Commerce Act (E-Sign Act), Public Law 106-229.

These regulations will set forth proposed performance
standards regarding the accuracy, integrity, and
accessibility of electronic records that would apply to
lenders, guaranty agencies, schools, and other parties
administering any student financial assistance program
authorized under Title IV of the Higher Education Act of
1965, as amended (HEA).

DATES: We must receive your comments on or before (INSERT
DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL
REGISTER). We are offering this limited comment period in
order to expedite issuance of the proposed rule. Comments
received by this date will be considered in the development
of the proposed rule. As a consequence of the publication

of this notice, and under section 107(b) of the E-Sign Act, the authority of a program participant to retain a required record in electronic form, in instances where that authority did not previously exist, will become effective on June 1, 2001, rather than on March 1, 2001.

ADDRESSES: Address all comments about this advanced notice of proposed rulemaking to: Gail McLarnon, U. S. Department of Education, 1990 K St., NW, Room 8062, Washington, DC 20006-8540. If you prefer to send your comments through the Internet, use the following address: gail_mclarnon@ed.gov.

FOR FURTHER INFORMATION CONTACT: Gail McLarnon, 202/219-7048.

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:

Background

The E-Sign Act provides, in part, that a signature, contract, or other record relating to a transaction may not be denied legal effect, validity, or enforceability solely

because it is in electronic form, or because an electronic signature or electronic record was used in its formation. By eliminating legal barriers, the E-Sign Act will allow lenders, guaranty agencies, schools, and other parties administering the Title IV, HEA student financial assistance programs to use electronic records and electronic signatures in place of records and signatures that, under the HEA and underlying regulations, must be maintained and provided in writing. Section 104(b)(3) of the E-Sign Act authorizes the Secretary to set forth general requirements regarding the accuracy, integrity, and accessibility of electronic records, and procedures relating to the maintenance of those records. The Secretary will be issuing proposed regulations that will contain such requirements and procedures.

Invitation to Comment:

We are seeking comments or suggestions on this notice. We are interested in comments on assuring approaches to assuring the accuracy, integrity, and accessibility of electronic records in the administration of the federal student aid programs. Specifically, we are interested in comments related to the maintenance of electronic records by program participants. Areas of interest include the following:

- The timeframe to implement the use and maintenance of electronic records.
- The impact of using and maintaining electronic records on the integrity of the Federal student financial aid programs.
- The comparability between electronic records and hard copy paper records.

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 either of the following sites:

<http://ocfo.ed.gov/fedreg.htm>

<http://www.ed.gov/news.html>

To use PDF you must have Adobe Acrobat Reader, which is available free at either of the previous sites. 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.access.gpo.gov/nara/index.html>

List of Subjects in 34 CFR Part 50

Colleges and universities, Grant programs-education,
Reporting and recordkeeping requirements.

Dated: FEB 27 2001

A handwritten signature in black ink, reading "Rod Paige", written over a horizontal line.

Rod Paige,
Secretary of Education.