



The Honorable Miguel Cardona  
United States Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue S.W.  
Washington, D.C. 20202

Re: Public Comment in Response to Notice of Information Collect Request  
Docket No. ED-2024-SCC-0096

Dear Secretary Cardona:

We have several concerns regarding the Federal Student Aid's Information Collection Request (ICR) concerning Partner Connect and submit this public comment in response to the most recent ICR, Docket No. ED-2024-SCC-0096, 89 Fed. Reg. 81,502-03 (Oct. 8, 2024). We oppose this ICR for the following reasons:

- 1) **Requiring sensitive, personally identifiable information of individual owners and ownership entities of postsecondary institutions as a condition to receive federal financial student aid under Title IV of the Higher Education Act of 1965, as amended, violates the Spending Clause of the United States Constitution.** Partner Connect, specifically the e-APP, requires postsecondary institutions of higher education to provide highly confidential information regarding entities that own postsecondary institutions, including personally identifiable information of individual owners who have less than a 5% ownership interest. Neither Title IV of the Higher Education Act of 1965, as amended, nor its implementing regulations require postsecondary institutions, their ownership entities, and their respective owners to provide such detailed information, including but not limited to names, dates of birth, addresses, personal telephone numbers, social security numbers, and other sensitive, personally identifiable information that if disclosed, may cause an individual or ownership entity economic harm and injury. The U.S. Department of Education is in violation of the Spending Clause of the U.S. Constitution in requiring institutions to provide such sensitive, personally identifiable information of ownership entities and individual owners as a condition of receiving federal financial student aid under Title IV, when Title IV and its implementing regulations do not require the provision of such information to receive federal financial student aid. The U.S. Department of Education has not gone through negotiated rulemaking to promulgate regulations to require the provision of such sensitive, personally identifiable information as a condition to receive federal financial student aid. Even if the U.S. Department of Education commences negotiated rulemaking, Title IV does not clearly authorize the Department to condition receipt of federal financial student aid upon disclosure of sensitive, highly confidential personally identifiable information of ownership entities and their owners.
- 2) **The U.S. Department of Education must provide appropriate safeguards to secure the sensitive, personally identifiable information stored in Partner Connect.** The U.S. Department of Education fails to provide any reassurance that the Department will implement appropriate security measures to safeguard students, ownership entities, and individual owners' personally identifiable information. This ICR requires the institution's president, chief executive officer, or designee to certify that the institution is "operating as intended pursuant to the Federal Trade Commission's (FTC) Final Rule on Standards for Safeguarding Customer Information (i.e., the Safeguards Rule)," and that the institution "has ensured the standards for protecting federal tax information (FTI) have been implemented according to Internal Revenue Code (IRC) 26 U.S.C. §6103." The ICR, however, provides no assurance or any representation that the U.S. Department of Education will implement the same standards required of institutions to safeguard the sensitive, personally identifiable information of students, institutions, institutions' ownership entities, and institutions' individual owners. Allowing institutional third-party servicers, guaranty agencies and guaranty agency servicers, Federal Family Educational Loan Program lenders and lender servicers,



federal loan servicers, and State Higher Education Agencies, to have access to Partner Connect, including sensitive, personally identifiable information of students and other individuals, without any assurance of adequate security protocols or safeguards is alarming. The federal government has experienced significant data breaches and failing to provide appropriate assurances that the federal government will adequately protect sensitive, personally identifiable information of students, owners, ownership entities, and institutions is unacceptable.

- 3) **The ICR, as proposed, violates the Privacy Act of 1974, 5 U.S.C. § 552a.** The Privacy Act provides: “No agency shall disclose any record which is contained in a system of records . . . to another agency.” 5 U.S.C. § 552a(b). This ICR provides the ability to disclose records and share information as between the U.S. Department of Education and the U.S. Department of Homeland Security, the U.S. Department of Justice, or the Office of Management and Budget. This ICR does not satisfy any of the exceptions under 5 U.S.C. § 552a(b) for authorized disclosures to other agencies. The U.S. District Court, Northern District of California, held in *Manriquez v. DeVos*, that the U.S. Department of Education violated the Privacy Act in disclosing information to the U.S. Department of Social Security Administration. 345 F. Supp. 3d 1077, 1097–98 (N.D. Cal. 2018). Accordingly, this Court enjoined the U.S. Department of Education under the Administrative Procedure Act from continuing a practice that required such disclosures in violation of the Privacy Act. *Id.* at 1108–09. This ICR permits and facilitates disclosure of records in Partner Connect, the U.S. Department of Education’s system of records, with the U.S. Department of Homeland Security, U.S. Department of Justice, or the Office of Management and Budget. Such disclosures to other agencies violates the Privacy Act. Accordingly, the Department should not proceed with this ICR.

For all these reasons, the U.S. Department of Education should not proceed with the ICR, as proposed, and should at the very least engage in negotiated rulemaking regarding whether sensitive, personally identifiable information of ownership entities and owners of institutions must be provided as part of the certification or recertification process to receive federal financial student aid. The Department also should provide reasonable assurances that Federal Student Aid will implement appropriate security protocols and safeguards to secure sensitive, personally identifiable information including of students, owners, ownership entities, and institutions. Finally, the Department should comply with the Privacy Act and should not disclose or allow for disclosure of information in its system of records to other agencies.

Sincerely,

Jeff Arthur  
VP Regulatory Affairs &  
Chief Information Officer