

§ 99.35(a)(3)

The NPRM adds a new requirement under § 99.35(a)(3) that requires that the agency headed by an official listed in § 99.31(a)(3) to use a written agreement to designate any authorized representative other than an agency employee. The written agreement must: (1) designate the individual or entity as an authorized representative; (2) specify the information to be disclosed and the purpose for which the information is disclosed to the authorized representative (i.e., to carry out an audit or evaluation of Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs); (3) require the authorized representative to destroy or return to the State or local educational authority or agency headed by an official listed in § 99.31(a)(3) personally identifiable information from education records when the information is no longer needed for the purpose specified; (4) specify the time period in which the information must be returned or destroyed; and (5) establish policies and procedures to protect personally identifiable information from education records from further disclosure (except back to the disclosing entity) and unauthorized use, included limiting use of information by only those authorized representatives of the entity with legitimate interested. We estimate that the burden for States is estimated at 40 hours annually for each educational authority (one for K-12 and one for postsecondary). This 40 hours of burden was reached by estimating that 103 State authorities may handle the agreements up to 10 times per year with an estimated time of 4 hours per agreement.