

Supporting Statement for Paperwork Reduction Act Submission

A. Justification

1. The Department of Education's Office of Elementary and Secondary Education requests consideration of the information collection requirements associated with the Final Regulations Title I—Improving the Academic Achievement of the Disadvantaged.

The regulations are needed to implement statutory provisions regarding State, local educational agency (LEA), and school accountability for the academic achievement of limited English proficient (LEP) students and are needed to implement changes to Title I, Part A, of the Elementary and Secondary Education Act of 1965, as amended (ESEA) made by the No Child Left Behind Act of 2001 (NCLB Act).

The information collection associated with these regulations relates to a change in the reporting requirements already required under Title I, Part A of the ESEA, for States that voluntarily choose to take advantage of the flexibility to exempt LEP students who are recent arrivals to the United States from one administration from the State's reading/language arts assessment. The Department has added to regulations §200.6(b)(4)(i)(C) to require a State and its LEAs, on State and district report cards, respectively, to report annually the number of recently arrived LEP students exempted from one administration of the State's reading/language arts assessment.

The Department included this provision as a tool for States and districts to monitor the use of this exemption and as a safeguard for children -- public disclosure on use of this flexibility will help ensure that it is not misused or abused by States. In order to use the flexibility, States and district must invest the time and effort to accurately identify recently arrived LEP students and report the number of students they are exempting from assessments.

In addition, States and districts already collect the number of students exempted from State assessments, and report, on State and local report cards, the percentage of students not tested (Section 1111(h)(1)(C)(iii)), disaggregated by student category. States and LEAs would have to be able to, and would want to, for their own benefit, account for and track separately the students to which this exemption would apply in order that those students are not miscounted as non-participants in the State's reading/language arts assessment. Under the regulation, States and LEAs would not be penalized for using this exemption in calculating their participation rates for Adequate Yearly Progress (AYP) – but States and LEAs would therefore need to be able to distinguish these test exemptions from other reasons students might be considered non-tested in annual State assessments.

The regulations would add a reporting category to the report card requirements in section 1111 (h)(1)(C)(iii) of the ESEA, to be reported on State and local report cards, for the number of students who were not tested because they were identified as LEP students who are recent arrivals to the United States. A copy of the relevant section of the ESEA is attached.

2. The information from this collection is to be reported on State and LEA report cards that are disseminated and made widely available to the public, community and parents as a part of the public dissemination requirements under NCLB in section 11111111(h)((1)(A) and Section 1111(h)(2)(E), which specifically requires LEAs to "publicly disseminate the information...to all schools...and to all parents...and make the information widely available through public means, such as posting on the internet, distribution to the media, and distribution through public agencies. The Department included this provision as a tool for States and districts to monitor the use of this exemption and as a safeguard for children -- public disclosure on use of this flexibility will help ensure that it is not misused or abused by States.
3. States have already developed data collection technology – including automated, electronic, web-based and other forms of information technology to be able to collect and report information required to be a part of their State and LEA report cards.
4. Although States and LEAs are already required to collect information on students exempted from State assessments, this proposed data collection is not a duplication of any existing data collection as it applies to a new category of students who, under this regulation, are eligible for a test exemption. The regulation includes a new flexibility to be introduced to States and to be used by States voluntarily. In order to take advantage of the flexibility States and LEAs would need to be able to track recently arrived LEP students who are eligible for one exemption from the State's reading/language arts assessment.
5. Neither small businesses nor small entities are affected by this collection.
6. Without this data collection there will be no publicly available information on how States, LEAs and schools use the flexibility related to LEP students who are recent arrivals to the United States. The Department included this provision as a tool for States and districts and the public to monitor the use of this exemption and as a safeguard for children so that it is not misused or abused by States.
7. There are no special circumstances that would cause this information collection to be conducted in a manner that would require: quarterly reporting; respondents to prepare a written response within 30 days of receipt; submission of more than an original and two copies of any document; respondents to retain records for more than three years. Furthermore, the collection is not a statistical survey, and it does not require a statistical data classification, a pledge of confidentiality or submission of proprietary information.
8. While this is a request for emergency clearance of this new information collection, publication of a separate Federal Register notice inviting comment on the information collection is not necessary, as the Department has invited public comment in the final regulation published on September 13, 2006, which we have attached.

9. No payment or gifts have been or will be provided to respondents.

10. There is no assurance of confidentiality provided to respondents.

11. This collection does not ask questions of a sensitive nature.

12. Burden hours for respondents:

For this information collection, the maximum number of respondents is 52 SEAs. SEAs would collect the information requested annually beginning with the first report card after the final regulation is published if the SEA chooses to take advantage of the flexibility offered by the regulation. The earliest response anticipated would be summer 2007 (report cards published after 2006-07 school year). Each response would average approximately 1 burden hour per year with a total burden estimate of 52 hours for all respondents.

13. Cost burden for respondents:

These are no costs that meet the criteria for inclusion under this item and that have not been addressed in item 12 or 14.

Primary costs to respondents fall into the following categories: collection of information and reporting of information. Because States already collect information from schools and districts on students exempted from State assessments and already prepare and disseminate report cards that include exemption information, we do not estimate additional annualized costs to respondents. We expect that, in the course of States' regular review of their own data collection and reporting process for preparing report cards, States to add or recode SEA and LEA test exemption collection instruments to include this newly available exemption option if they wish to take advantage of the flexibility afforded by the regulation.

14. There are no annualized costs to the Federal government for this data collection.

15. None. This is a new regulation and data collection request.

16. The Department will not publish the information collected due to this collection as the States will report it on their State and local report cards. Typically, States collect data for report cards following administration of State assessments (most often in Spring of each year, and in the Fall of each in some States), at the end of each school year, and publish the information before the end of the summer of each calendar year.

17. As the SEAs and LEAs will conduct the information collection, the proposed display of the expiration date for OMB approval for the data collection would be inappropriate because these entities, rather than the Federal government, are doing the collections.

18. There are no exceptions to the certification statement.

19. This information collection will not employ statistical methods.