

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

Information Collections under the Final Regulations Governing the Student Assistance General Provisions – Non-Title IV Revenue Requirements (90/10).

A. Justification

1. Necessity of Information Collected

As provided by the Higher Education Opportunity Act, the final regulations provide that a proprietary institution must derive at least 10% of its annual revenue from sources other than Title IV, HEA funds and otherwise implement the statute by (1) specifying a Net Present Value (NPV) formula used to establish the revenue for institutional loans, (2) providing an administratively easier alternative to the NPV calculation, and (3) describing more fully the non-Title IV eligible programs from which revenue may be counted for 90/10 purposes. The final regulations require an institution to disclose in a footnote to its audited financial statements the amounts of Federal and non-Federal revenues, by category, that it used in calculating its 90/10 ratio (see section 487(d) of the HEA).

The final regulations are a result of regulatory review of the program regulations to provide benefits to students, and protect the taxpayers' interest. This request is for approval of reporting requirements contained in the attached final regulations related to the administrative requirements of the non-Title IV revenue requirement (90/10) program. The information collection requirements in these final regulations are necessary to determine eligibility to receive program benefits and to prevent fraud and abuse of program funds.

General Provisions: (OMB control number: 1845-NEW2)

Section 668.28 contains information collections requirements. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d), the Department of Education is submitting a copy of this section to the Office of Management (OMB) for its review. We are making the following changes to that section:

Section 668.28(b) – Net present value (NPV)

The final regulation provides the formula for the net present value (NPV) that institutions calculate if they do not elect to use the optional fifty (50) percent of the total amount of the loans it made during the fiscal year.

Section 668.28(c) – Sanctions

The final regulation provides that the institution must notify the Secretary no later than 45 days after the end of the fiscal year if it fails to meet the 90/10 requirement.

Appendix C of 668 subpart B provides an example of the NPV calculation.

2. Purpose and Use of Information Collected

The final regulations moved the 90/10 requirement from the institution of higher education definition in the regulations to the program participation agreement section of the regulations and changed the information that must be collected from proprietary schools about the revenue source that must be reported to the Department.

The institutions reporting of the meeting or failure to meet the 90/10 revenue requirement as reported as a footnote to the required annual financial audit will allow the Department to institute either provisional certification or loss of eligibility to participate proceedings.

The institutional information regarding the failure to meet the 90/10 revenue must be reported to the Secretary who must publicly disclose the institutional information on the Department's College Navigator Website.

3. Consideration of Improved Information Technology

The reporting of this information via the audited financial statements may be sent to the Department in an electronic format using the eZ-Audit process.

4. Efforts to Identify Duplication

There is no duplication of data as a result of the collection of this information.

5. Burden Minimization as Applied to Small Business

No small businesses are impacted by this collection.

6. Consequences of Less Frequent Data Collection

Per statute, the information must be collected annually.

7. Special Circumstances Governing Data Collection

The information collection requirements require no special circumstances.

8. Consultation Outside the Agency

These regulations were discussed with members of the higher education community and other interested parties in a series of Negotiated Rulemaking sessions in March, April and May of 2009. Additionally, we published 60 and 30-day *Federal Register* notices allowing the public to provide their comments.

9. Payment or Gift to Respondents

There are no payments or gifts to respondents.

10. Assurance of Confidentiality

The final requirements do not cover any confidential information.

11. Questions of a Sensitive Nature

ED is not requesting any sensitive data.

12. Annual Hour Burden for Respondents/Recordkeepers

We estimate the hours for proprietary schools to calculate and report the non-Title IV revenue (90/10) requirement will be 1 to 2 hours depending upon the calculation method selected by the institution.

Affected Entities and Burden:

New 668.28(b) – Net present value (NPV)

	# of Respondents	# of Responses	# of Hours Burden
Institutions:			
Proprietary (full NPV calculation)	1,029	1,029	X 2 hours = 2,058 hours
<u>Proprietary (50% of total loans)</u>	<u>1,029</u>	<u>1,029</u>	<u>X 1 hours = 1,029 hours</u>
Subtotal	2,058	2,058	3,087 hours

New 668.28(c) – Sanctions

	# of Respondents	# of Responses	# of Hours Burden
Institutions:			
Proprietary	9	9	X.08 hours = 1 hour

TOTAL 2,067 2,067 3,088 hours

Annual Cost of Burden to Respondents

We estimate that the cost to the institutional respondents will be:

	# of Respondents	Est. \$/ Hour	Est. \$ Burden
Institutions:			
Proprietary (full NPV calculation)	1,029 X	\$15 X	2 hours = \$30,870
<u>Proprietary (50% of total loans)</u>	<u>1,029 X</u>	<u>\$15 X</u>	<u>1 hours = \$15,435</u>
TOTAL	2,058		\$46,305

13. Start-up Cost Burden to the Respondents

There is no new system start-up costs associated with the final regulations.

14. Estimated of Annual Cost to the Federal Government

There are no additional costs to the Federal government as a result of the final regulation.

15. Reasons for Changes to Burden Hour Estimated

This is a new collection that is required by a change in the regulations due to implementing the statutory changes made by the Higher Education Opportunity Act (HEOA) (Pub. L. 110-315) that amends the Higher Education Act of 1965, as amended (HEA). A summary is provided below:

Respondents, Responses and Burden Hours:

	<u># of Respondents</u>	<u># of Responses</u>	<u># of Hours Burden</u>
New Inventory	2,067	2,067	3,088 hours

16. Collection of Information with Published Results

Institutions that fail to meet the 90/10 Rule will be identified publicly on the Department’s College Navigator Website.

17. Approval to Not Display Expiration Date

ED is not seeking this approval.

18. Exception to the Certification Statement

ED is not requesting any exceptions to the “Certification for Paperwork Reduction Act Submissions” of OMB Form 83-1.