

SUPPORTING STATEMENT

Information Collections Under the Regulations Governing Student Assistance General Provisions.

A. JUSTIFICATION

RIN-1840-AD02

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

This request is for approval of the reporting and records maintenance requirements that are contained in the Student Assistance General Provisions regulations - Subpart J, governing the approval of State processes for assessments used to measure a student's skills and abilities, as well as private test publisher submissions for approval by the Secretary as well as the administration of tests that may be used to determine a student's eligibility for assistance for the Title IV student financial assistance programs authorized under the Higher Education Act of 1965, as amended (HEA). The Higher Education Amendments of 1992 (P.L. 102-325) enacted on July 23, 1992, required the Department to issue final regulations regarding such processes for measuring skills and abilities. These final regulations were published in the Federal Register on December 1, 1995. These regulations implemented changes made to section 484(d) of the HEA, as amended.

The Higher Education Act of 1965, as amended by the Higher Education Opportunity Act of 2008 (HEOA) (Pub. L. 110-315, enacted August 14, 2008) including changes made by the Technical Corrections to the Higher Education Act of 1965 (Pub. L. 111-39, enacted on July 1, 2009) proposes implementing regulations that require -

- (1) all postsecondary institutions could only admit those students who had a high school diploma or recognized equivalent or who passed an independently administered ability-to-benefit test which was approved by the Secretary, and
- (2) to be eligible to receive Title IV student financial assistance students had to have a high school diploma or recognized equivalent or pass an independently administered ability-to-benefit test which was approved by the Secretary.

In addition, the Department had recently received Government Accountability Office Report GAO-09-600 Stronger Department of Education Oversight Needed to Help Ensure Only Eligible Students Receive Federal Student Aid. In its initial response to the

GAO, the Department indicated that we had begun a new round of negotiated rulemaking, having conducted public hearings in Denver, Little Rock, and Philadelphia and received additional public comments by e-mail. As a result, the Department decided to include ability to benefit (ATB) testing in the topics for negotiation.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

Subpart J – Approval of Independently Administered Tests; Specification of Passing Score; Approval of State Process (OMB control number: 1845-0049)

Sections 668.144, 668.150, 668.151, 668.152 and 668.153 currently contain information collection requirements approved by OMB. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education is submitting a copy of these sections to the Office of Management and Budget (OMB) for its review. We are adding the following sections:

Section 668.144 – Application for test approval.

The final regulations recognize that since the first ability to benefit (ATB) final regulations issued in 1995, there have not been any State tests or assessments submitted to the Department for approval. As a result, and to simplify the process, a number of changes in Subpart J combine requirements for test publishers and States. Therefore, the requirements of §668.143 have been subsumed into §668.144.

Section 668.144(c)(16) & (d)(7) requires that a test publisher and a State, respectively, as part of its ATB test application describe its process to determine how a test administrator has the necessary training, knowledge, skills and integrity to test students and how a test administrator has the ability and facilities to keep its test secure against disclosure or release.

Section 668.144(c)(17) & (d)(8) requires that a test publisher and a State, respectively, will explain to the Secretary its test anomaly analysis; how it will identify potential test irregularities and make a determination that test irregularities have occurred; an explanation of the process and procedures for corrective action, including decertification of a certified test administrator; and report information on when and how it will notify a test administrator, the Secretary, the institutions where the test irregularities occurred, that the test administrator has been decertified.

Section 668.144(c)(18) & (d)(9) requires that a test publisher and a State, respectively, will describe to the Secretary the types of accommodations available to individuals with disabilities, including an explanation of any accessible technologies and a description of

the process for a test administrator to identify and report when accommodations for individuals with disabilities were provided.

Section 668.150 – Agreement between the Secretary and a test publisher or a State.

Section 668.150(b)(2) requires that each test publisher or State to obtain a certification statement from each prospective test administrator indicating that he or she is not currently decertified and that if the test administrator becomes decertified by another test publisher or State that he or she will immediately notify all other test publishers or States for whom the test administrator administers ATB tests.

Section 668.150(b)(6) requires that the test publisher or State, respectively, immediately notify the test administrator, the Secretary, and the institutions where the test administrator previously administered the ATB tests when it decertifies a test administrator.

Section 668.150(b)(7) requires that when the test publisher or State makes a determination that ATB tests have been improperly administered, the final regulations require that the affected students and prospective students must be notified by the respective test publisher or State. In addition, the final regulations require that the respective test publisher or State are required to provide a report to the Secretary on the results of their review and determination of improper ATB test administration, the notifications to the institutions, students and prospective students.

Section 668.150(b)(8) requires that when a test publisher or State, respectively, certifies a previously decertified test administrator after the three year decertification period, the final regulations require the test publisher or State to report to the Secretary information on previously decertified test administrators that it re-certifies.

Section 668.150(b)(13) requires that test publishers or a State analyze the test scores for all ATB test takers every 18 months to determine if there are any irregular patterns that raises an inference of improper test administration.

Section 668.150(b)(15) requires that the test publisher or State immediately report to the Secretary if it finds any credible information indicating that the approved ATB test has been compromised.

Section 668.150(b)(16) requires that the test publisher or State immediately report to the Office of the Inspector General of the Department of Education any credible information indicating that a test administrator or institution may have engaged in fraud or other criminal misconduct.

Section 668.150(b)(17) requires that all certified test administrators must report to the test publisher or State, respectively, the nature of the disability and any accommodations provided when approved ATB tests are given to individuals with disabilities.

Section 668.151 – Administration of tests.

Section 668.151(g)(4) & (5) requires that institutions where approved ATB test are given by certified test administrators either at assessment centers or by an independent test administrators, maintain the name and address of the test administrator who administered the test. The final regulations also require that if the individual who took the test has a disability and as a result was unable to be evaluated by the use of a conventional test or required test accommodations, that documentation of the individual’s disability and of the testing arrangements must be maintained by the institution.

Section 668.152 – Administration of tests by assessment centers.

The final regulations require that if the test assessment center scores the approved ATB test that it must provide a copy of the completed test to the test publisher or State, as applicable, on a weekly basis to include either; the name, address, and any other identifier provided by the test publisher or State of the test administrator who administered the test; or a report of all test-takers’ scores and institutions to which the scores were sent and the name, address, and any other identifier provided by the test publisher or State of the test administrator who administered the test.

Section 668.153 – Administration of tests for individuals whose native language is not English or for individuals with disabilities.

The final regulations require that the test administrator must ensure that there is documentation to support the determination that the individual has a disability and requires accommodations, however, the burden associated with this final requirement is in the maintenance of the documentation by the institution in §668.151(g)(5).

Student Assistance General Provisions:

Subpart J – Approval of Independently Administered Tests

The Department of Education is responsible for evaluating the quality of the State plans and tests submitted under the provisions articulated by the Secretary. Department staff will read the submitted tests and use services contracted through psychometricians to evaluate the submitted ATB tests using the Secretary's guidelines in these established regulations to determine if the tests meet the conditions for approval by the Secretary.

Postsecondary institutions will evaluate the test scores obtained by the student applicants for Federal student assistance to determine whether the student is eligible under the law for Title IV, HEA program assistance.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision of adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Although there are no legal or technical obstacles to the use of technology in this information collection activity, the process for applicants to submit their tests for approval is generally not conducive to any more sophisticated use of technology. However, over time we have seen ATB test publishers move from “paper and pencil” tests to computer-based testing and would expect this trend to expand. As testing continues to move into computer-based formats, the reporting of the test results by test publishers to the institutions the student plans to attend may become more automated, until then States and test publishers will continue to provide students with a paper output report or electronic output document, and institutions with an electronic output document.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use of the purposes described in Item 2 above.

The information supplied for State provided plans, for ATB test publisher applications for test approval, and in the students' test score results is not duplicated on any other information collection.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

No small businesses are affected by this information collection.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The request for approval of a State process is continuously based upon (1) activities that are included in the process and (2) student outcomes. To date, there have been zero State submissions for approval.

The request for ATB test approval from test publishers will continue to be as often as the test developers determine it is in their interest to apply for the Secretary's approval or as the five year agreement reaches its expiration consistent with the regulations in Subpart J. The submission of the student's test score results from the test publisher to the institution generally, will occur only once. In other cases, where the institution is a two-year or four-year degree granting institution or a public postsecondary vocational institution and

the institution has a qualified assessment center, the center may score the student's ATB test and provide the results to the student's institution.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- requiring respondents to report information to the agency more often than quarterly;
- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- requiring respondents to submit more than an original and two copies of any document;
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- in connection with a statistical survey, that is not designed to produce valid and reliable results than can be generalized to the universe of study;
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

This application is consistent with all of the guidelines in 5 CFR 1320.5(d)(2), except for the request for five copies of the tests. These tests are copyrighted and cannot be duplicated by the Department for review purposes. Therefore, the Department is requesting a waiver for 5 CFR 1320.5(d)(2)(iii). Five copies of the tests are required because the tests are reviewed and analyzed by Department staff and several testing experts under contract with the Department, before any test approval is granted by the Secretary.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instruction and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

A notice of Proposed Rulemaking (NPRM) was published in the Federal Register on June 18, 2010 (75 FR 34806) seeking public comment. In addition to the Notice of Proposed Rulemaking that impacted this information collection – 1840-AD02, a 60-day and 30-day Federal Register notice was published seeking public comment. No public comments under the PRA were received.

Prior to the approval of any ATB test that is submitted to the Secretary for approval, the Department contracts with psychometrician(s) (testing experts) to provide technical assistance to the Department. The psychometrician provides an expert opinion on the submission relative to the regulatory requirements and consistent with professional testing standards. These final regulations were negotiated by the Department with members of the community over three negotiated sessions in early 2010.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There are no payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

There is no assurance of confidentiality provided to the respondents concerning the application for State plans or test approval and assurance of confidentiality for the submission of test scores.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. The justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature in this application.

Provide estimates of the hour burden of the collection of information. The statement should :

12. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.
- Provide estimates of annualized cost to respondents of the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should not be included in Item 14.

Section 668.144 – Application for test approval.

Section 668.144(c)(16) & (d)(7) requires that a test publisher and a State, respectively, as part of its ATB test application describe its process to determine how a test administrator has the necessary training, knowledge, skills and integrity to test students, as well as how a test administrator has the ability and facilities to keep its test secure against disclosure or release..

We estimate that a test publisher or State will on average take 2.5 additional hours to develop its process to establish that a test administrator has the necessary training, knowledge, skills and integrity to test students. Each test publisher or State had to already had a process to determine training, knowledge and skills, the new final requirement is a process to determine the integrity of the test administrator and to report their process to the Secretary in its submission for approval.

AFFECTED ENTITIES and BURDEN:

FOR PROFIT:

$$8 \text{ approved ATB tests} \times 2.5 \text{ hours} = 20 \text{ hours}$$

# of Responses:	# of Respondents:	# of Burden Hours:
8	8	20

Section 668.144(c)(17) & (d)(8) requires that a test publisher and a State, respectively, will explain to the Secretary its test anomaly analysis; how it will identify potential test irregularities and make a determination that test irregularities have occurred; an explanation of the process and procedures for corrective action, including decertification of a certified test administrator; and report information on when and how it will notify a test administrator, the Secretary, the institutions where the test irregularities occurred, that the test administrator has been decertified.

We estimate that a test publisher or State will on average take 75 hours to develop its test anomaly process and to establish its test anomaly analysis and explain it to the Secretary. That explanation must include its test irregularity detection process, its corrective action process, including its decertification of test administrator process, as well as its reporting processes.

AFFECTED ENTITIES and BURDEN:
FOR PROFIT:

8 approved ATB tests X	75 hours	=	600 hours
# of Responses:	# of Respondents:		# of Burden Hours:
8	8		600

Section 668.144(c)(18) & (d)(9) requires that a test publisher and a State, respectively, will describe to the Secretary the types of accommodations available to individuals with disabilities, including an explanation of any accessible technologies and a description of the process for a test administrator to identify and report when accommodations for individuals with disabilities were provided.

We estimate that a test publisher or State will on average take 1 hour to develop and describe to the Secretary the types of accommodations available to individuals with disabilities, the process the test administrator will use to support the identification of the disability and the process to report when accommodations were used.

AFFECTED ENTITIES and BURDEN:
FOR PROFIT:

8 approved ATB tests X	1 hour	=	8 hours
# of Responses:	# of Respondents:		# of Burden Hours:
8	8		8

SUB-TOTAL for 34 CFR 668.144:

# of Responses:	# of Respondents:	# of Burden Hours:
24	24	628

per decertification to notify the test administrators, the Secretary, and the affected institutions for a total of 38 hours of burden.

AFFECTED ENTITIES and BURDEN:

FOR-PROFIT:

Test publishers -
 3,774 test administrators X .01 = 38 X 1 hour = 38 hours

# of Responses:	# of Respondents:	# of Burden Hours:
38	38	38

Section 668.150(b)(7) requires that when the test publisher or State makes a determination that ATB tests have been improperly administered, the final regulations require that the affected students and prospective students must be notified by the respective test publisher or State. In addition, the final regulations require that the respective test publisher or State are required to provide a report to the Secretary on the results of their review and determination of improper ATB test administration, the notifications to the institutions, students and prospective students.

We estimate that it will take each test publisher or State, as applicable, 5 hours to develop their process to determine when ATB tests have been improperly administered. We estimate that 481,763 ATB tests will be provided per year and estimate that 1 % of those tests could be improperly administered or 4,818 affected students or prospective students would require notification from the test publisher or State. We estimate that the notification process and any follow-up contact to average .33 hours (20 minutes) per contact and .25 hours (15 minutes) per student.

AFFECTED ENTITIES and BURDEN:

FOR PROFIT:

ATB test publishers:
 8 X 5 hrs to dev. process to determine when an ATB test
 has been improperly administered = 40 Hrs

ATB test publisher immediate notification to affected students and prospective students of improper testing:

4,818 X .25 hours = 1,205 hours

Test publishers reporting to the Department the results of review and notification to institutions and students who have been improperly tested:

$$4,818 \quad X \quad .33 \text{ hours} \quad = \quad 1,590 \text{ hours}$$

# of Responses:	# of Respondents:	# of Burden Hours:
9,644	8	2,835

Section 668.150(b)(8) requires that when a test publisher or State, respectively, re-certifies a previously decertified test administrator after the three year decertification period, the final regulations require the test publisher or State to report to the Secretary information on previously decertified test administrators that it re-certifies.

AFFECTED ENTITIES and BURDEN:
FOR PROFIT:

Test publishers:

$$3,774 \text{ test administrators} \quad X \quad .01 \text{ decertified} \quad = \quad 38 \text{ decertifications}$$

$$38 \text{ decertifications} \quad X \quad .02 \% \quad = \quad 1 \text{ recertification}$$

recertified after the 3-yr period

# of Responses:	# of Respondents:	# of Burden Hours:
1	1	1

Section 668.150(b)(13) requires to require that test publishers or a State analyze the test scores for all ATB test takers every 18 months to determine if there are any irregular patterns that raises an inference of improper test administration.

We estimate that a test publisher or State will on average take 75 hours to conduct its test anomaly process to establish its test anomaly analysis and report the results to the Secretary at the end of each 18-month period. That explanation must include its test irregularity detection process results, its corrective action process results, including its decertification of test administrator process results, as well as its reporting processes.

AFFECTED ENTITIES and BURDEN:
FOR PROFIT:

$$8 \text{ approved ATB tests} \quad X \quad 75 \text{ hours} \quad = \quad 600 \text{ hours}$$

# of Responses:	# of Respondents:	# of Burden Hours:
8	8	600

Section 668.150(b)(15) requires that the test publisher or State immediately report to the Secretary if it finds any credible information indicating that the approved ATB test has been compromised.

We estimate 481,763 ATB tests will be taken each year, of that number we estimate that in .01 % of the tests or 482 cases will be compromised and therefore required to be reported to the Secretary. We estimate the collection of credible information and its reporting to the Secretary to take 1 hour per incidence.

AFFECTED ENTITIES and BURDEN:
FOR PROFIT:

Test publishers data collection and reporting of compromised ATB tests:

$$481,763 \quad X \quad .001 \quad = \quad 482 \text{ cases} \quad X \quad 1 \text{ hour} \quad = \quad 482 \text{ hours}$$

# of Responses:	# of Respondents:	# of Burden Hours:
482	482	482

Section 668.150(b)(16) requires that the test publisher or State immediately report to the Office of the Inspector General of the Department of Education any credible information indicating that a test administrator or institution may have engaged in fraud or other criminal misconduct.

We estimate 481,763 ATB tests will be taken each year, of that number we estimate that in .01 % of the tests or 48 cases that will be credible information indicating that a test administrator or institution may have engaged in fraud or other criminal conduct. We estimate the collection of credible information and its reporting to the Office of the Inspector General to take 1 hour per incidence.

AFFECTED ENTITIES and BURDEN:
FOR PROFIT:

Test publishers data collection and reporting of compromised ATB tests:

$$481,763 \quad X \quad .001 \quad = \quad 482 \text{ cases} \quad X \quad 1 \text{ hour} \quad = \quad 482 \text{ hours}$$

# of Responses:	# of Respondents:	# of Burden Hours:
482	482	482

Section 668.150(b)(17) requires that all certified test administrators are required to report to the test publisher or State, respectively, the nature of the disability and any accommodations provided when approved ATB tests are given to individuals with disabilities.

We estimate that the average amount of time that a test publisher or State, as applicable, will take to develop its process for having test administrators report the nature of the test taker's disability and any accommodation provided to the individual with the disability to be 2 hours per test.

**AFFECTED ENTITIES and BURDEN:
FOR PROFIT:**

Test publishers:

8 tests X 2 hours for development & implementation = 16 hours

# of Responses:	# of Respondents:	# of Burden Hours:
8	8	16

Census information indicates that 12 % of the U.S. population is severely disabled, we estimate that 57,812 of the ATB test takers will be individuals with disabilities. We estimate that on average it will take .08 hours (5 minutes) per case to report the nature of the disability and any accommodation that the test administrator made for the test taker.

**AFFECTED ENTITIES and BURDEN:
INDIVIDUALS:**

Test administrators:

481,763 ATB test takers X 12% with disabilities =
57,812 cases X .08 hours per case reported = 4,625 hours

# of Responses:	# of Respondents:	# of Burden Hours:
57,812	57,812	4,625

SUB-TOTAL for 34 CFR 668.150:

# of Responses:	# of Respondents:	# of Burden Hours:
76,031	76,031	10,031

Section 668.151 – Administration of tests.

Section 668.151(g)(4) requires that institutions where approved ATB test are given by certified test administrators either at assessment centers or by an independent test administrators, maintain the name and address of the test administrator who administered the test. Section 668.151(g)(5) requires that if the individual who took the test has a disability and as a result was unable to be evaluated by the use of a conventional test or required test accommodations, that documentation of the individual's disability and of the testing arrangements must be maintained by the institution.

Section 668.151(g)(5) - We estimate that on average it will take an institution .08 hours (5 minutes) per ATB test to collect and maintain the identifier information on each test administrator for each ATB test provided, therefore we estimate a total burden of 38,581

hours. In addition, for the estimated 57,812 ATB test takers who are individuals with disabilities that it will take an additional .08 hours (5 minutes) per test taker to collect and maintain documentation on the individual's disability and the testing accommodations that were made by the test administrator for the ATB test-taker.

AFFECTED ENTITIES and BURDEN:

Section 668.151(g)(4) –

PROPRIETARY INSTITUTIONS:

Burden associated with the final requirement that institutions maintain the identifier information for all certified ATB test administrators.

481,763 ATB test takers X .36% (proprietary institutions as a percentage of all participating institutions) 173,445 X .08 hours = 13,876 hours

# of Responses:	# of Respondents:	# of Burden Hours:
173,445	173,445	13,876

PRIVATE NON-PROFIT INSTITUTIONS:

Burden associated with the final requirement that institutions maintain the identifier information for all certified ATB test administrators.

481,763 ATB test takers X .31% (private non-profit institutions as a percentage of all participating institutions) 149,347 X .08 hours = 11,948 hours

# of Responses:	# of Respondents:	# of Burden Hours:
149,347	149,347	11,948

PUBLIC INSTITUTIONS:

Burden associated with the final requirement that institutions maintain the identifier information for all certified ATB test administrators.

481,763 ATB test takers X .33% (public institutions as a percentage of all participating institutions) 158,962 X .08 hours = 12,717 hours

# of Responses:	# of Respondents:	# of Burden Hours:
158,962	158,962	12,717

Section 668.151(g)(5) –

AFFECTED ENTITIES and BURDEN:

PUBLIC INSTITUTIONS:

Burden associated with the final requirement that institutions collect and maintain documentation of the individual ATB test-takers disability and of any accommodating provided by the certified test administrator to the ATB test-taker (668.151(g)(5)).

PUBLIC INSTITUTIONS:

57,812 cases of individuals with disabilities taking an ATB test X .33 (public institutions as a percentage of all participating institutions) 19,078 X .08 hours per case reported = 1,526 hours

# of Responses:	# of Respondents:	# of Burden Hours:
19,078	19,078	1,526

PRIVATE NON-PROFIT INSTITUTIONS:

57,812 cases of individuals with disabilities taking an ATB test X .31 (private non-profit institutions as a percentage of all participating institutions) 17,922 X .08 hours per case reported = 1,434 hours

# of Responses:	# of Respondents:	# of Burden Hours:
17,922	17,922	1,434

PROPRIETARY INSTITUTIONS:

57,812 cases of individuals with disabilities taking an ATB test X .36 (proprietary institutions as a percentage of all participating institutions) 20,812 X .08 hours per case reported = 1,665 hours

# of Responses:	# of Respondents:	# of Burden Hours:
20,812	20,812	1,665

SUB-TOTAL for 34 CFR 668.151:

# of Responses:	# of Respondents:	# of Burden Hours:
539,566	539,566	43,166

Section 668.152 – Administration of tests by assessment centers.

The final regulations require that if the test assessment center scores the approved ATB test that it must provide a copy of the completed test to the test publisher or State, as applicable, on a weekly basis to include either; the name, address, and any other identifier provided by the test publisher or State of the test administrator who administered the test; or a report of all test-takers' scores and institutions to which the scores were sent and the name, address, and any other identifier provided by the test publisher or State of the test administrator who administered the test.

We estimate that of the 3,774 test administrators, approximately one-third or 1,256 of the test administrators are at test assessment centers.

AFFECTED ENTITIES and BURDEN:

PRIVATE NON-PROFIT INSTITUTIONS:

We estimate that 18% of the test assessment centers giving ATB tests are at private non-profit institutions.

$$\begin{array}{rcl}
 1,256 \text{ assessment centers} & \times .18 & = & 226 \\
 & & & \underline{\times .08 \text{ hours (5 minutes)}} \\
 & & & \underline{\times 52 \text{ weeks}}
 \end{array}$$

equals 940 hours of additional burden.

# of Responses:	# of Respondents:	# of Burden Hours:
226	226	940

PUBLIC INSTITUTIONS:

We estimate that 82% of the test assessment centers giving ATB tests are at public institutions.

$$\begin{array}{rcl}
 1,256 \text{ assessment centers} & \times .82 & = & 1,030 \\
 & & & \underline{\times .08 \text{ hours (5 minutes)}} \\
 & & & \underline{\times 52 \text{ weeks}}
 \end{array}$$

equals 4,285 hours of additional burden.

# of Responses:	# of Respondents:	# of Burden Hours:
1,030	1,030	4,285

SUB-TOTAL for 34 CFR 668.152:

# of Responses:	# of Respondents:	# of Burden Hours:
1,256	1,256	5,225

Section 668.153 – Administration of tests for individuals whose native language is not English or for individuals with disabilities.

The final regulations require that the test administrator must ensure that there is documentation to support the determination that the individual has a disability and requires accommodations, however, the burden associated with this final requirement is in the maintenance of the documentation by the institution in §668.151(g)(5) - see above.

Total Respondents, Responses and Burden Hours:

# of Respondents	# of Responses	# Hrs Burden
Section 668.144 – Application for test approval.		
24	24	628

Section 668.150 – Agreement between the Secretary and a test publisher or a State.

76,031	76,031	10,031
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Section 668.151 – Administration of tests.

539,566	539,566	43,166
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Section 668.152 – Administration of tests by assessment centers.

1,256	1,256	5,225
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Sub-total:

616,877	616,877	59,050
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Current

Inventory:

# of Respondents	# of Responses	# Hrs Burden
1,165	360,010	181,110

Total:

# of Respondents	# of Responses	# Hrs Burden
618,042	976,887	240,160

For additional information, please see the supplementary document “Burden Analysis – 1845-0049 – RIN 1840-AD02”.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of contracting out information

collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

Total Annualized Capital/Startup Cost	: \$0
Total Annual Costs (O&M)	: \$0
Total Annualized Costs Requested	: \$0

There are no startup costs.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

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

15. Explain the reasons for any program changes or adjustments to #16f of the IC Data Part 1 Form.

The burden increase of 616,877 respondents and 59,050 hours is due to programmatic changes. The program regulations had not been revised and updated since their initial inclusion in the regulations 1995. The Department had received and reviewed the Government Accountability Office report GAO-09-600 urging increased oversight in establishing eligibility for federal student aid. As determination of ability to benefit is one of the alternate methods to gaining eligibility to participate in Title IV, HEA funding programs, it was determined that ATB would be in the negotiated rulemaking process planned for the fall 2009. This was the most robust way of ensuring all participants could participate in the review and changes to applicable regulations.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

This information will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

ED is not seeking this approval. The OMB number and expiration date will be announced in the Federal Register once approved by the Office of Management and Budget.

18. Explain each exception to the certification statement identified in Item 20, "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification.