

## SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

### A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a hard copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information, or you may provide a valid URL link or paste the applicable section<sup>1</sup>. Specify the review type of the collection (new, revision, extension, reinstatement with change, reinstatement without change). If revised, briefly specify the changes. If a rulemaking is involved, make note of the sections or changed sections, if applicable.

*The purpose of this submission is to extend the previously approved collection for the Equity in Athletics Disclosure Act (EADA), found in section 485 of the Higher Education Act of 1965 (HEA), as amended. The statute ([20 U.S.C. 1092\(e\)](#)), and its implementing regulations ([34 CFR 668.41](#) and [34 CFR 668.47](#)) require coeducational institutions that participate in the Title IV, HEA federal student aid programs and that have an intercollegiate athletic program to annually prepare a report on athletic participation, staffing, revenue and expenditures by gender, and by men's and women's teams. An institution must make the report available to students, potential students, and the public upon request. An institution must also report the data to the Department of Education and the Department makes the information publicly available on its website.*

*In response to public comment, we have revised the User's Guide and the data collection to instruct institutions with an opposite player on a men's or women's team to clarify in the caveat box how many participants on that team are males and how many are females. In addition, we have clarified on the landing page for the Data Analysis Cutting Tool, in the User's Guide, and on the survey log-in page that the data reflected on these sites may not be the same as data used for determining compliance with other Federal or state laws, including Title IX of the Education Amendments of 1972.*

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.

*The information in the EADA report is used by prospective student-athletes to help them choose a postsecondary institution. Prospective and current students and the public also use the information to assess an institution's commitment to and progress toward gender equity in intercollegiate athletics.*

---

<sup>1</sup> Please limit pasted text to no longer than 3 paragraphs.

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 given to using technology to reduce burden.

*The information collection is conducted via a web-based application (the EADA Survey). Institutions are required to submit their information electronically using the EADA survey. Data submitted online are migrated to the Office of Postsecondary Education's*

*(OPE's) public dissemination website at <http://ope.ed.gov/athletics> for anyone to view. The EADA Survey has been conducted electronically since collection year 2001.*

*Institutions must also disclose the report to current and prospective students and the public. Institutions are encouraged to use appropriate information technologies to reduce their burden. For instance, in the preamble to the final rules (60 Fed Reg 61426 (1995)), the Department explicitly noted that institutions may opt to make the information available by electronic means.*

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

*There is some overlap between these requirements and those with which an institution must comply pursuant to its Program Participation Agreement (PPA) in 34 CFR 668.14, but there is no duplication in the data collected. Under those regulations, an institution entering into a PPA with the department must agree that, if the institution is coeducational and has an intercollegiate athletic program, it will comply with the provisions in 34 CFR 668.48.*

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden. A small entity may be (1) a small business which is deemed to be one that is independently owned and operated and that is not dominant in its field of operation; (2) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field; or (3) a small government jurisdiction, which is a government of a city, county, town, township, school district, or special district with a population of less than 50,000.

*These requirements have no impact on small businesses or other entities.*

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.

*Per statute, the information must be collected and disclosed annually.*

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 that 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 information collection requires no special circumstances.*

8. As applicable, state that the Department has published the 60 and 30 Day Federal Register notices as 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.

*The appropriate Federal Register notices were published soliciting public comments.*

#### *60 Day Federal Register Notice*

*The Department received approximately 1,450 comments from the public on this data collection in response to the 60 Day Federal Register notice. The majority of the comments (roughly 1,400) were duplicate letters that stressed the importance of the continued collection and requested changes to clarify the data. Specifically, these commenters recommended that the Department 1) require institutions to report the race and ethnicity of their student populations and athletic participants in order to reveal any differences among subgroups and 2) change the definition of a “participant” so that opposite sex players, such as male practice players on a women’s team, do not count. In response to the commenters’ first recommendation, we noted that the HEA currently provides us only the authority to collect data by gender and not by race and ethnicity. Accordingly, we did not make this change. With regards to the second comment, we noted that we would need to conduct a negotiated rulemaking process to change the definition of “participant” in the way the commenters suggest. However, we have revised the User’s Guide and collection instrument to instruct institutions to use the existing Caveat Box to specify how many participants on each team were males and how many were females.*

*We received only a handful of comments on the cost and hour burden associated with this collection. Four commenters believed that the estimates were low, however, one of the commenters noted that for the subset of schools that also complete the National Collegiate Athletics Association’s (NCAA) data collection, the burden would be shared. Several commenters urged the Department to explore ways to merge the EADA data collection with the NCAA’s data collection. In response to these comments, we explained that our estimated average takes into account the diversity of the institutions required to complete an EADA report, in terms of the size of their athletic programs and their administrative capacities. We further noted that we have received very few comments indicating that our estimate is inaccurate since the collection began. As the information collected has not changed substantively in several years, we do not believe that a significant increase in the burden estimate is warranted. As far as comments related to the NCAA collection, we noted that the HEA does not provide a waiver for institutions participating in an athletic association or conference to use that data in lieu of the EADA report.*

*In addition to these comments, we received comments on the timing of the survey, the utility and need for the EADA data collection, on the interaction of the survey with Title IX of the Education Amendments of 1972, and other items.*

#### *30 Day Federal Register Notice*

*We received seven comments from the public on this data collection in response to the 30 Day Federal Register notice. The commenters reiterated concerns about counting male practice players as participants on female teams and urged the Department to go further than the changes we proposed by requiring institutions to make it mandatory to report the number of males and females on each team. We anticipate making this change for future collections and will submit the appropriate forms to OMB in advance of making those changes; however, we are unable to make system program changes in time for this fall’s collection. The commenters also reiterated recommendations to make EADA definitions and reporting match those in Title IX, as well as to revise or clarify some of the definitions in the regulations and the EADA survey. We note that we would need to engage in negotiated rulemaking before making*

*those changes, but that we will work to streamline our definitions across the Department when we next negotiate.*

*One of the commenters argued that the EADA survey is minimally burdensome, suggesting that our estimate is too high. We note again that the estimate has been consistent for several years and that we believe it takes into account the capacity of institutions of varying size and administrative capabilities.*

*Please see the attached excel files for a complete summary of the comments received in response to each Notice.*

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

*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. If personally identifiable information (PII) is being collected, a Privacy Act statement should be included on the instrument. Please provide a citation for the Systems of Record Notice and the date a Privacy Impact Assessment was completed as indicated on the IC Data Form. A confidentiality statement with a legal citation that authorizes the pledge of confidentiality should be provided.<sup>2</sup> If the collection is subject to the Privacy Act, the Privacy Act statement is deemed sufficient with respect to confidentiality. If there is no expectation of confidentiality, simply state that the Department makes no pledge about the confidentiality of the data.

*The EADA and regulations require an institution to disclose the average salaries of head and assistant coaches of men and women's teams. There are a very small number of co-ed teams. Requiring institutions to report separate averages for coaches of co-ed teams might effectively require the institution to disclose an individual's salary. To avoid this, the Department allows institutions to include the average salaries of coaches of co-ed teams as a pro-rated portion of the average salaries of coaches of men's and women's teams (60 Fed Reg 61432 (1995)).*

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.

*These requirements contain no questions of a sensitive nature.*

---

<sup>2</sup> Requests for this information are in accordance with the following ED and OMB policies: Privacy Act of 1974, OMB Circular A-108 – Privacy Act Implementation – Guidelines and Responsibilities, OMB Circular A-130 Appendix I – Federal Agency Responsibilities for Maintaining Records About Individuals, OMB M-03-22 – OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002, OMB M-06-15 – Safeguarding Personally Identifiable Information, OM:6-104 – Privacy Act of 1974 (Collection, Use and Protection of Personally Identifiable Information)

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

- Indicate the number of respondents by affected public type (federal government, individuals or households, private sector – businesses or other for-profit, private sector – not-for-profit institutions, farms, state, local or tribal governments), frequency of response, annual hour burden, and an explanation of how the burden was estimated, including identification of burden type: recordkeeping, reporting or third party disclosure. All narrative should be included in item 12. 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 in the ROCIS IC Burden Analysis Table. (The table should at minimum include Respondent types, IC activity, Respondent and Responses, Hours/Response, and Total Hours)
- 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 be included in Item 14.

*These requirements apply to institutions that participate in a title IV, HEA program AND have an intercollegiate athletic program. 2068 institutions reported data in the 2011 collection cycle, and 2074 institutions reported data in the 2012 collection cycle. We do not anticipate that this number will grow substantially in the coming years.*

*The annual reporting burden is 5.5 hours per respondent. Therefore, the total overall annual burden is 11,407 hours (5.5 hours per respondent X 2074 respondents).*

*The annual cost per respondent is \$110.00 (5.5 hours X \$20.00 per hour). The total annual cost for all respondents is \$228,140 (2074 respondents X \$110.00).*

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 acquiring and maintaining 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. Also, these estimates should not include the hourly costs (i.e., the monetization of the hours) captured above in Item 12

Total Annualized Capital/Startup Cost	:	\$0.00
Total Annual Costs (O&M)	:	\$0.00
Total Annualized Costs Requested		
	:	\$0.00

*There are no costs associated with responding to these requirements other than those detailed in response to Question No. 12.*

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.

*Estimated annual cost to the Federal government:*

Salaried Staff	12 hours	\$1,000.00
Contract Costs	1400	\$380,000.00

*Estimated total costs to the Federal Government: \$381,000.00*

15. Explain the reasons for any program changes or adjustments. Generally, adjustments in burden result from re-estimating burden and/or from economic phenomenon outside of an agency's control (e.g., correcting a burden estimate or an organic increase in the size of the reporting universe). Program changes result from a deliberate action that materially changes a collection of information and generally are result of new statute or an agency action (e.g., changing a form, revising regulations, redefining the respondent universe, etc.). Burden changes should be disaggregated by type of change (i.e., adjustment, program change due to new statute, and/or program change due to agency discretion), type of collection (new, revision, extension, reinstatement with change, reinstatement without change) and include totals for changes in burden hours, responses and costs (if applicable).

*The total annual cost burden to respondents increased slightly due to an increase in the reporting universe. As explained above, the number of institutions in the most recent year with data available was 2074, an increase over the previously estimated 2000.*

*The annual cost to the Federal Government has increased due to increased contract costs. Previously, we estimated that we spent approximately \$183,718 on contractor costs and an additional \$31,285 on salaried staff. The responsibilities for this collection, which include for example collecting the data, supporting the database, and cleaning the data, are largely concentrated with the contractor. Accordingly, we believe that it is appropriate to shift the bulk of the costs previously listed for salaried staff to costs included in the contract.*

*In response to comments from the public, we have revised the collection to instruct institutions to specify the number of male and female participants on each team reported. The current regulatory definition of "participants" includes opposite sex players on a men's or women's team. This revision will clarify for users of the data how many of the reported participants are males and how many are females. This information is readily available and is already collected at the schools that have these players for other purposes. Therefore, this clarification will not add burden to the overall estimate.*

*Also in response to comments from the public, we have added a statement to the log-in page for the survey, to the landing page for the Data Analysis Cutting Tool, and to the EADA User's Guide clarifying that the data reflected on these sites are provided in accordance with the EADA and may not be the same as data used for determining compliance with other laws, such as Title IX of the Education Amendments of 1972. This clarifies for the public how the data will be utilized and does not add burden to the overall estimate.*

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 collection is available via the Department's web site if the public wishes to view the information.*

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.



*We are not seeking approval to not display the expiration date for OMB approval.*

18. Explain each exception to the certification statement identified in the Certification of Paperwork Reduction Act.

*There are no exceptions to the certification statement.*