

The Secretary proposed to amend Student Assistance General Provisions by adding Subpart R to 34 CFR Part 668. The program cohort default rate is a measure the Department uses to determine the eligibility of a GE program under Subpart R of 34 CFR part. This subpart describes how program cohort default rates (pCDR) are calculated, some of the consequences of pCDRs, and how institutions may request changes to their pCDRs or appeal the consequences. Under this subpart, the institution submits a “challenge” after it receives its draft program cohort default rate, and the institution requests an “adjustment” or “appeal” after its official program cohort default rate is published.

Section 668.504(b) – Draft cohort default rates and your ability to challenge before official program cohort default rates are issued, incorrect data challenges.

Under proposed 668.504(b), the institution may challenge the accuracy of the data included on the Loan Record Detail Report (LRDR) by sending an incorrect data challenge to the relevant data manager(s) within 45 days of receipt of the LRDR from the Department. The challenge would include a description of the information in the LRDR that the institution believes is incorrect along with supporting documentation.

Based upon FY 2011 submissions, there were 353 institutional CDR challenges for incorrect data of a total of 510 challenges, requests for adjustments, and appeals, a 69 percent submission rate. Therefore 69 percent of the projected 1,863 challenges, adjustments, and appeals, or 1,285, are projected to be challenges for incorrect data.

We estimate that out of the likely 1,285 submissions, 1,182 (92 percent) would be from for-profit institutions. We estimate that the average institutional staff time needed to review a GE program’s LRDR for each of these 1,182 programs and to gather and prepare incorrect data challenges would be 4 hours (1.5 hours for list review and 2.5 hours for documentation submission). This would increase burden by 4,728 hours.

Section 668.504(c) – Draft cohort default rates and your ability to challenge before official program cohort default rates are issued, participation rate index challenges.

Under proposed 668.504(c), institutions may challenge an anticipated loss of title IV eligibility, if the institution’s participation rate would be equal to or less than 0.0625 for any of the three pCDR fiscal years that where the pCDR is 30 percent or greater. A participation rate index challenge (and a participation rate index appeal for final rates, discussed below) could be submitted if the number of students who received title IV, HEA program loans during a one-year period was only a small percentage of those who were eligible to borrow.

Based upon FY 2011 submissions, there were 2 participation rate index challenges of the total 510 challenges, requests for adjustments, and appeals 0.4 percent. Therefore we project that there will be 4 participation rate challenges (0.4 percent of the projected 943 challenges, adjustments, and appeals). Note that we use 943 and not 1,863 because the 1,863 includes 920 programs with rates between 20.0 percent and 29.9 percent that are not subject to loss of eligibility and only the 943 failing programs are subject to loss of eligibility and can submit a participation rate index challenge.

Further, based upon GE program distribution percentages, we project that all 4 participation rate index challenges would be from for-profit institutions. Therefore, all of the estimated burden below would be to for-profit institutions and none to private non-profit or public institutions.

On average, we estimate that gathering and submitting the information for each participation rate challenge would take 2.0 hours per submission. Therefore, burden would increase by 8 hours (4 participation rate index challenges times 2 hours per submission) under OMB Control Number 1845-NEW3.

#### Section 668.509 - Uncorrected data adjustments.

An institution may request an uncorrected data adjustment for the most recent cohort of borrowers used to calculate a GE program's most recent official pCDR, if in response to the institution's incorrect data challenge, a data manager agreed to change data but the changes were not reflected in the official pCDR.

Based upon FY 2011 submissions, there were 116 uncorrected data adjustments of the total 510 challenges, requests for adjustments, and appeals. Therefore, 23 percent of the projected 943 challenges, adjustments, and appeals (based on possible loss of eligibility) or 217 are projected to be uncorrected data adjustments. We estimate that the average institutional staff time needed is 1 hour for list review and 0.5 hours for documentation submission, for a total of 1.5 hours.

We estimate that 200 (92 percent) of the 217 projected uncorrected data adjustments will be from for-profit institutions. Therefore, burden would increase at for-profit institutions by 300 hours (200 adjustments times 1.5 hours) under OMB Control Number 1845-NEW3.

#### Section 668.510 – New data adjustments.

An institution could request a new data adjustment for the most recent cohort of borrowers used to calculate the most recent official pCDR for a GE program, if a comparison of the LRDR for the draft rates and the LRDR for the official rates show that data have been newly included, excluded, or otherwise changed and the errors are confirmed by the data manager.

Based upon FY 2011 submissions, there were 12 new data adjustments of the total 510 challenges, requests for adjustments, and appeals. Therefore, 2 percent of the projected 943 challenges, adjustments, and appeals (based on possible sanction) or 19 are projected to be new data adjustments. We estimate that the average institutional staff time needed is 3 hours for list review and 1 hour for documentation submission, for a total of 4 hours.

We estimate that 17 (92 percent) of the 19 projected new data adjustments would be from for-profit institutions. Therefore, burden would increase at for-profit institutions by 68 hours (17 adjustments times 4 hours) under OMB Control Number 1845-NEW3.

#### Section 668.512 Loan Servicing appeals.

An institution could appeal the calculation of a pCDR on the basis of improper loan servicing or collection only if the borrower did not make a payment on the loan and the institution can prove that the servicer failed to perform required loan servicing or collections activities.

Based upon FY 2011 submissions, there were 19 loan servicing appeals of the total 510 challenges, requests for adjustments, and appeals. Therefore, 4 percent or 38 of the projected 943

challenges, adjustments, and appeals are projected to be loan servicing appeals. We estimate that, on average, to gather, analyze, and submit the necessary documentation, each appeal would take 3 hours.

We estimate that 35 (92 percent) of the 38 projected loan servicing appeals would be from for-profit institutions. Therefore, burden would increase at for-profit institutions by 105 hours (35 servicing appeals times 3 hours) under OMB Control Number 1845-NEW3.

#### Section 668.513 - Economically disadvantaged appeals.

An institution could appeal a notice of a sanction under §668.410 or a notice of a second successive official pCDR that is equal to or greater than 30 percent if an independent auditor certifies that the low income rate for the GE program is two-thirds or more and the program is a degree program with a completion rate of 70 percent or more or, if the program is not a degree program, its placement rate is 44 percent or more.

Based upon FY 2011 submissions, there were 6 economically disadvantaged appeals of the total 510 challenges, requests for adjustments, and appeals. Therefore 9 (1 percent) of the projected 943 challenges, adjustments, and appeals are projected to be economically disadvantaged appeals. We estimate that preparing and submitting an economically disadvantaged appeal would take an institution 5 hours for each program.

We estimate that 8 (92 percent) of the 9 projected economically disadvantaged appeals would be from for-profit institutions. Therefore, burden would increase at for-profit institutions by 40 hours (8 programs times 5 hours) under OMB Control Number 1845-NEW3.

#### Section 668.514 Participation rate index appeals.

An institution could appeal a notice of loss of title IV eligibility under §668.410 based upon two pCDRs of 30 percent or greater if the participation rate index for that GE program is equal to or less than 0.0625 for any of those three program cohort's fiscal years. A participation rate index appeal (and a participation rate index challenge for draft rates, discussed above) could be submitted if the number of students who received title IV, HEA program loans during a one-year period was only a small percentage of those who were eligible to borrow.

Based upon FY 2011 submissions, there were 2 participation rate index appeals of the total 510 challenges, requests for adjustments, and appeals. Therefore 0.4 percent of the projected 943 challenges, adjustments, and appeals or 4 are projected to be participation rate index appeals. On average, we estimate that gathering and submitting the information for each appeal would take 2 hours per submission.

We estimate that all 4 projected participation rate index appeals would be from for-profit institutions. Therefore, the total increase in burden for §668.514 would be 8 hours (4 participation rate index appeals times 2 hours) under OMB Control Number 1845-NEW3.

#### TOTALS

Responses 1,450

Respondents 1,450

Burden Hours 5,257