

The Secretary amends the Student Assistance General Provisions by adding new Subpart Q to Part 668. This subpart applies to postsecondary educational programs that lead to gainful employment (GE) in recognized occupations.

This is a new information collection for §668.406 – Appeals for D/E rates, which allows an institution to submit alternate earnings appeals to challenge the Secretary’s determination of a GE program that is failing or in the zone under the D/E rates.

The regulations provide an institution the opportunity to make an alternate earnings appeal under §668.406(c) and (d). An institution could appeal a GE program’s final D/E rates in any year in which the program’s D/E rates are failing or in the zone. In submitting an appeal under the regulations, an institution will seek to demonstrate that using alternate earnings the recalculated rates are sufficient to pass the D/E rates measure or to be in the zone. The institution may base its appeal on alternate earnings evidence from a survey conducted in accordance with requirements established by NCES or from earnings information from a State-sponsored data system.

Section 668.406(c) – Survey requirements for appeals.

We estimate that for-profit institutions will have 1,225 gainful employment programs in the zone and that 718 programs will be failing for a total of 1,943 programs. We expect that most institutions will determine that SSA data reflect accurately the earnings of students and will therefore not elect to conduct the survey. Accordingly, we estimate that for-profit institutions will submit alternate earnings appeals under the survey appeal option for 10 percent of those programs, which will equal 194 appeals annually. We estimate that conducting the survey, providing the institutional certification, and obtaining the examination-level attestation engagement report will total, on average 100 hours of increased burden, therefore burden will increase 19,400 hours (194 appeals times 100 hours of burden per appeal) under OMB Control Number 1845-0122.

Section 668.406(d) – State-sponsored data system requirements for appeals.

We estimate that there will be 718 failing GE programs at for-profit institutions and 1,225 programs in the zone, for a total of 1,943 programs. We expect that most institutions will determine that SSA data reflect accurately the earnings of students who completed a program and will therefore not elect to submit earnings data from a State-sponsored system. Accordingly, we estimate that in 10 percent of those cases, institutions will obtain earnings data from a State-sponsored system, resulting in approximately 194 appeals. We estimate that, on average each appeal will take 20 hours, including execution of an agreement for data sharing and privacy protection under the Family Educational Rights and Privacy Act (20 U.S.C 1232g) (FERPA) between the institution and a State agency (when the State agency is located other than in the State in which the institution resides), preparing the list(s), submitting the list(s) to the appropriate State agency, reviewing the results, calculating the revised D/E rates, and submitting those results to the Secretary. Therefore, burden will increase by 3,880 hours (194 State system appeals times 20 hours) under OMB Control Number 1845-0122.

Section 668.406(e) – Appeals procedure.

We estimated above that for-profit institutions will have 194 alternate earnings survey appeals annually plus 194 State-sponsored data system appeals for a total of 388 appeals. We estimate that completing and submitting a notice of intent to use alternate earnings survey data or a State data appeal increases burden, on average, by 0.25 hours per submission or 97 hours under OMB Control 1845-0122.

TOTALS

Responses	776
Respondents	388
Burden Hours	23,377