

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
STUDENT ASSISTANCE GENERAL PROVISIONS**

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 section¹. 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.

In early 2015, the Department of Education (Department) held a series of Negotiated Rulemaking sessions to discuss with members of the affected communities and the public the need for changes to the current regulations on a variety of topics. These negotiations led to the following proposed changes to 34 CFR 668.16, 668.204, 668.208, and 668.214. The Department is requesting a revision of the current information collection 1845-0022. The proposed changes would revise the current general provisions regulations as follows.

The proposed regulations would permit an institution to bring a timely participation rate index challenge or appeal in any year the institution's draft or official cohort default rate (CDR) is less than or equal to 40 percent but greater than or equal to 30 percent for any of the three most recently calculated fiscal years (for challenges, counting the draft rate as the most recent rate). This challenge or appeal opportunity is available provided that the institution has not brought a participation rate challenge or appeal on that rate before, and that the institution has not previously lost eligibility or been placed on provisional certification based on that rate. In addition, if the institution brought a successful participation rate challenge from a draft CDR that was less than or equal to the corresponding official CDR, that would preclude provisional certification and loss of eligibility from being imposed based on the official CDR, without the institution needing to bring a participation rate appeal in later years.

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.

There is no change to the purpose and use of the information collected under the regulations. If we did not require the reporting and recordkeeping of information in conjunction with the regulations identified below, we would not be able to ensure that the institutions are in compliance with the regulations.

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

¹ Please limit pasted text to no longer than 3 paragraphs.

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.

Institutions must use available technology to transmit documents to and from the U.S. Department of Education and Federal student aid recipients. Institutions will submit challenge and appeal information electronically to the Department. Institutions are expected to follow the required encryption of personally identifiable information when utilizing electronic transmission of such data.

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.

The current requirements are minimal and avoid duplication. There is no similar information available that can be used or modified for this purpose at this time.

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.

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.

Recordkeeping and reporting requirements are imposed to assure accountability of program participants for proper program administration and less frequent collection could impair accountability of program participants.

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.

The collection of this information will be conducted in a manner that is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. As applicable, state that the Department has published the 60 and 30 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 regulations were developed through the Negotiated Rulemaking process where the public provided its input and in consultation with schools, a variety of professional associations and other interested parties. The comment period for the burden associated with these proposed regulations will run concurrently with the comment period for the regulations.

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

No payments or gifts are provided to the 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.² If the collection is subject to the

² 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 –

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.

There is no assurance of confidentiality provided to institutions for the submission of this information.

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.

The Department is not requesting any sensitive data.

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.

The proposed regulations would permit an institution to bring a timely participation rate index challenge or appeal in any year the institution's draft or official cohort default rate is less than or equal to 40 percent, but greater than or equal to 30 percent, for any of the three most recently calculated fiscal years (for challenges, counting the draft rate as the most recent rate), provided that the institution has not brought a participation rate challenge or appeal from that rate before, and that the institution has not previously lost eligibility or been placed on provisional certification based on that rate. In addition, if

the institution brought a successful participation rate challenge from a draft CDR that was less than or equal to the corresponding official CDR, this would preclude provisional certification and loss of eligibility from being imposed based on the official CDR, without the institution needing to bring a participation rate appeal in later years.

Because the proposed regulation does not fundamentally change an institution's basis for challenging or appealing its cohort default rate, but instead alters the timeline in which the school may submit its challenge or appeal, we do not believe that this regulation significantly alters burden on institutions. However, it would prevent a school from needing to appeal a final CDR on the basis of its participation rate index if the final CDR is less than or equal to the draft CDR on which a participation rate index challenge was successful.

We estimate that the change in the need to appeal a final CDR on the basis of participation rate index when a challenge to a comparable rate on the same basis was successful will prevent 50 appeals per year, of which 15 would be expected from public institutions, of which 10 would be expected from not-for-profit institutions, and of which 25 would be expected from proprietary institutions. We have previously estimated that an appeal takes each institution 1.5 hours per response.

Under 668.16, 668.204, 668.208, and 668.214, therefore, for public institutions, we estimate that this regulation will decrease burden by 23 hours per year (15 public institutions multiplied by 1 appeal multiplied by 1.5 hours per appeal). For not-for-profit institutions, we estimate that this regulation will decrease burden by 15 hours per year (10 not-for-profit institutions multiplied by 1 appeal multiplied by 1.5 hours per appeal). For proprietary institutions, we estimate that this regulation will decrease burden by 37 hours per year (25 proprietary institutions multiplied by 1 appeal multiplied by 1.5 hours per appeal).

Collectively, the total decrease in burden for §§668.16, 668.204, 668.208, and 668.214 would be 75 hours under OMB Control Number 1845-0022.

Current burden calculation

Respondents	Responses	Burden Hours
904,212	1,329,148	2,216,045

Proposed changes

Based on one response per respondent, this equates to a total estimated reduction in annual reporting burden of 75 hours, calculated as follows:

Respondents	Responses		Burden Hours
15 Public institution	15	X 1.5 hours	-23
10 Private institution	10	X 1.5 hours	-15
<u>25 For-Profit institution</u>	<u>25</u>	<u>X 1.5 hours</u>	<u>-37</u>
Total 50 Institutions	50		-75

Revised totals		
Respondents	Responses	Burden Hours
904,162	1,329,098	2,215,970

There are no annual costs to respondents associated with operating or maintaining systems or purchasing services.

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 :
 Total Annual Costs (O&M) :
 Total Annualized Costs Requested : _____

There is no start-up cost associated with these regulations.

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 regulations.

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 Department is requesting a revision of the current general provision regulations information collection under OMB 1845-0022. The proposed regulation prompts a revision to the current collection and creates a program change due to agency discretion. The regulations modify provisions governing cohort default rates and appeals of such rates. There is a decrease of 75 hours in burden hours and a decrease of 50 respondents and responses from the current collection.

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.

The results of the collection of 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.

The Department is not seeking this approval.

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

The Department is not requesting any exceptions to the "Certification of Paperwork Reduction Act Submissions".