

**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.

The Department of Education (the Department) proposes to amend the Student Assistance General Provisions regulations issued under the Higher Education Act of 1965, as amended (HEA), to implement changes made to the Student Assistance General Provisions regulations in §§668.14, 668.171 and 668.175.. These proposed regulations are a result of negotiated rulemaking and would add new requirements to the current regulations.

These proposed regulations in §668.14 are intended to increase outreach by the Secretary and institutions and make more information available to borrowers eligible for a closed school discharge so that they are aware of the option. The proposed regulations in §668.171 include conditions and events that trigger a requirement that the school provide financial protection, such as a letter of credit. Such conditions and events include incurring significant amounts of liability in recent years for borrower defense claim losses, an institution's inability to pay claims, and events that would compromise an institution's ability to continue its participation in the title IV, HEA programs. The proposed regulations in §668.175 identifies the amounts of financial protection, such as letters of credit, required in the event of particular occurrences.

This request is to revise the current information collection to include these new regulatory requirements.

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 §668.14 required to be provided by institutions will be used by current students to assist them in making informed decisions about options in dealing with a closing institutions. The actions required of institutions in §§668.171 and 668.175 will be disseminated to current and prospective students at the institution and will aid them in making informed decisions about enrolling or continuing to be enrolled at an affected institution.

¹ 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.

There are no prohibitions to the use of technology in providing the required closed school cancellation form and other options at closing to current borrowers. The providing to the Secretary either cash or an irrevocable letter of credit would require physical exchange. However, if an institution utilizes the “set-aside” method of providing the financial protection to the Secretary, this would occur electronically.

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.

This information is not duplicated on any other information collection.

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.

Using data from the Integrated Postsecondary Education Data System, the Department estimates that approximately 4,365 institutions qualify as small entities--1,891 are not-for-profit institutions, 2,474 are for-profit institutions. While most institutions will provide the required information via electronic means, there will be some smaller institutions that will choose to provide the warnings and promotional materials to students using paper documents. The use of the electronic means will mitigate the burden of these warnings.

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 proposed regulations require institutions to provide current borrowers with specific documentation when the institution is closing. These documents are meant to provide additional consumer information upon which decisions can be made by the borrower to have their loan forgiven or to continue their education through a teach-out agreement. Not providing the information keeps a borrower from having information about all of the options available through the regulations. The proposed regulations clarify for institutions the conditions and events that trigger a requirement that the school provide

financial protection as well as the amounts of such financial protection that may be required. This allows for institutions to understand the requirements used in identifying possible fiduciary risk by the Secretary.

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 does not require any special circumstances.

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 Department developed these regulations after conducting negotiated rulemaking with the affected entities and other parties. The comment period for this information collection package will run concurrently with the Notice of Proposed Rulemaking.

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.² 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.

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.

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

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.

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 – Safeguarding Personally Identifiable Information, OM:6-104 – Privacy Act of 1974 (Collection, Use and Protection of Personally Identifiable Information)

- 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.

Section §668.14--Program participation agreement.

Under proposed §668.14(b)(32) as part of the program participation agreement, an institution would be required to provide all enrolled students a closed school discharge application and a written disclosure, describing the benefits and the consequences of a closed school discharge as an alternative to completing their educational program through a teach-out plan after the Department initiates any action to terminate the participation of the school in any title IV, HEA program or after the occurrence of any of the events specified in §668.14(b)(31) that would require the institution to submit a teach-out plan.

AFFECTED ENTITIES AND BURDEN:

From AY 2011-12 to 2014-15 there were 182 institutions that closed (30 private, 150 proprietary, and 2 public). The number of students who were enrolled at the institutions at the time of the closure was 43,299 (5,322 at the private institutions, 37,959 at the proprietary institutions, and 18 at the public institutions). With these figures as a base, we estimate that there could be 46 schools closing in a given award year (182 institutions divided by 4 = 45.5) with an average 238 students per institution (43,299 divided by 182 = 237.9).

There will be burden on institutions to disseminate the required closed school discharge form and other information. We estimate that an institution will require two hours to prepare and process the required written disclosure with a copy of the closed school discharge application and the necessary mailing list for currently enrolled students. We anticipate that most schools will provide this information electronically to their students, thus decreasing burden and cost.

On average, we estimate that it will take the estimated 8 private institutions that will close a total of 324 hours to prepare and process the required written disclosure with a copy of the closed school discharge application and the necessary mailing list for the estimated 1,904 enrolled students.

On average, we estimate that it will take the estimated 38 proprietary institutions that will close a total of 1,537 hours to prepare and process the required written disclosure with a copy of the closed school discharge application and the necessary mailing list for the estimated 9,044 enrolled students.

Affected Entity	# of Respondents	# of Responses	Hrs/Response	Total Burden
Private Institutions	8	1,904	x .17 hours	324
Proprietary Institutions	38	9,044	x .17 hours	1,537

For §668.14, the total increase in burden will be 1,861 hours under OMB Control Number 1845-0022.

§668.171 Financial responsibility. General.

Under proposed §668.171(d), in accordance with procedures to be established by the Secretary, an institution would notify the Secretary of any action or triggering event described in proposed §668.171(c) no later than 10 days after that action or event occurs. In that notice, the institution may show that certain actions or events are not material or that those actions are resolved. Specifically:

- The institution may explain why a judicial or administrative proceeding the institution disclosed to the SEC does not constitute a material event.
- The institution may demonstrate that a withdrawal of owner's equity was used solely to meet tax liabilities of the institution or its owners. Or, where the composite score is calculated based on the consolidated financial statements of a group of institutions, the amount withdrawn from one institution in the group was transferred to another entity within that group.
- The institution may show that the creditor waived a violation of a loan agreement. If the creditor imposes additional constraints or requirements as a condition of waiving the violation and continuing with the loan, the institution must identify and describe those constraints or requirements. In addition, if a default or delinquency event occurs or other events occur that trigger, or enable the creditor to require or impose, additional constraints or penalties on the institution, the institution would be permitted to show why these actions would not have an adverse financial impact on the institution.

AFFECTED ENTITIES AND BURDEN:

There will be burden on schools to provide the notice to the Secretary when one of the actions or triggering events identified in §668.171(c) occurs. We estimate that an institution will take two hours per action or triggering event to prepare the appropriate notice and provide it to the Secretary.

We estimate that 169 private institutions may have 2 events annually to report for a total burden of 676 hours (169 institutions x 2 events x 2 hours).

We estimate that 392 proprietary institutions may have 3 events annually to report for total burden of 2,352 hours (392 institutions x 3 events x 2 hours).

We estimate that 91 public institutions may have 1 event annually to report for a total burden of 182 hours (91 institutions x 1 event x 2 hours).

Affected Entity	# of Respondents	# of Responses	Hrs/Response	Total Burden
Private Institutions	169	338	x 2 hours	676
Proprietary Institutions	392	1,176	x 2 hours	2,352
Public Institutions	91	91	x 2 hours	182

This total burden of 3,210 hours will be assessed under OMB Control Number 1845-0022.

§668.175 Alternative standards and requirements.

Under the provisional certification alternative in §668.175, we propose to add a new paragraph (f)(4) that ties the amount of the financial protection that an institution must submit to the Secretary to an action or triggering event described in proposed §668.171(c). Specifically, under this alternative, an institution would be required to provide the Secretary financial protection, such as an irrevocable letter of credit, for an amount that is:

- For a State or Federal action under proposed §668.171(c)(1)(i)(A) or (B), 10 percent or more, as determined by the Secretary, of the amount of Direct Loan program funds received by the institution during its most recently completed fiscal year; and
- For repayments to the Secretary for losses from borrower defense claims under proposed §668.171(c)(2), the greatest annual loss incurred by the Secretary during the three most recently completed award years to resolve those claims or the amount of losses incurred by the Secretary during the most recently completed award year, whichever is greater, plus a portion of the amount of any outstanding or pending claims based on the ratio of the total value of claims resolved in favor of borrowers during the three most recently completed award years to the total value of claims adjudicated during the three most completed award years;
- For any other action or triggering event described in proposed §668.171(c), if the institution's composite score is less than 1.0, or the institution no longer qualifies under the zone alternative, 10 percent or more, as determined by the Secretary, of the total amount of title IV, HEA program funds received by the institution during its most recently completed fiscal year.

AFFECTED ENTITIES AND BURDEN:

There will be burden on schools to provide the required financial protection, such as a letter of credit, to the Secretary to utilize the provisional certification alternative. We estimate that an institution will take 40 hours per action or triggering event to obtain the required financial protections and provide it to the Secretary.

We estimate that 169 private not-for-profit institutions may have 2 events annually to report for a total burden of 13,520 hours (169 institutions x 2 events x 40 hours).

We estimate that 392 proprietary institutions may have 3 events annually to report for total burden of 47,040 hours (392 institutions x 3 events x 40 hours).

We estimate that 91 public institutions may have 1 event annually to report for a total burden of 3,640 hours (91 institutions x 1 event x 40 hours).

Affected Entity	# of Respondents	# of Responses	Hrs/Response	Total Burden
Private Institutions	169	338	x 40 hours	13,520
Proprietary Institutions	392	1,176	x 40 hours	47,040
Public Institutions	91	91	x 40 hours	3,640

This total burden of 64,200 hours will be assessed under OMB Control Number 1845-0022.

Total of Proposed Burden:

# of Respondents	# of Responses	Total Burden
698	14,158	69,271

Current Burden:

# of Respondents	# of Responses	Total Burden
904,162	1,329,098	2,215,970

Proposed Revised Burden for Information Collection

# of Respondents	# of Responses	Total Burden
904,162*	1,343,256	2,285,241

*The proposed respondent count is not added to the current respondent count to avoid over counting the affected entities.

We estimate the cost to institutional respondents, based on \$36.55 per burden hour, will be:

Private Institutions =	\$ 530,695
Proprietary Institutions =	\$ 1,861,473
Public Institutions =	<u>\$ 139,694</u>
	\$ 2,531,862

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 are no start-up costs related to this proposed regulation.

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 from these proposed 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).

This request is to revise the currently approved information collection. These changes are due to the proposed regulations offered through program changes. The increase in burden to this information collection is 69,271 hours.

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 information in the proposed rule will not be published by the Department.

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 for Paperwork Reduction Act Submissions” of OMB Form 83-I.