

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
Institutional Disclosures for Distance Education or Correspondence Programs**

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 (Department) proposes to amend the Student Assistance General Provisions regulations in Subpart D – Institutional and Financial Assistance Information for Students issued under the Higher Education Act of 1965, as amended (HEA), through new 34 CFR Part 668.50 requiring institutional disclosures for distance education and correspondence courses. These proposed regulations are a result of negotiated rulemaking and would add new requirements to the current regulations.

This proposed regulatory action establishes requirements for institutional disclosures to prospective and enrolled students in programs offered solely through distance education or correspondence courses, which the Department believes will protect students by providing them with important information that may influence their attendance in distance education programs or correspondence courses as well as improve the efficacy of State-based consumer protections for students. Since distance education may involve multiple States, institutional and program authorization requirements among States may differ, and students may be unfamiliar with or fail to receive information about complaint processes, licensure requirements, or other requirements of authorities in States in which they do not reside.

These proposed disclosures will provide consistent information necessary to safeguard students and taxpayer investments in the title IV, HEA programs. By requiring disclosures that reflect actions taken against a distance education program, how to lodge complaints against a program they believe has misled them, and whether the program will lead to certification or licensure will provide enrolled and prospective students with important information that will protect them.

This request is for a new 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 the proposed regulatory requirements will be used by the prospective and enrolled students to ensure that important information about complaint processes, licensure

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

requirements, or other requirements of authorities in States in which the students do not reside is provided so that they may make informed decisions regarding their attendance in programs offered solely through distance education or correspondence courses as well as improve the efficacy of State-based consumer protections.

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 is nothing in the regulations which would prevent the use of technology in the exchange of this information between the institution and the student.

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 in 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.

The Department does not believe the proposed regulations will adversely impact any institution that may meet the small entity designation.

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.

If the collection required in these proposed regulations does not take place both prospective and enrolled students will not have consistent consumer information necessary to protect them and safeguard their and taxpayer investments in the Title IV, HEA programs.

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 affected entities and other interested parties. The public 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.

No payments of gifts will be provided 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 are no assurances of confidentiality provided to institutions regarding 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.
 - 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.

This is a new information collection. The Department proposes to add new §668.50(b) and (c), which would require disclosures to enrolled and prospective students in the institution's distance

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)

education programs or correspondence courses. Seven proposed disclosures would be made publicly available, and three disclosures would require direct communication with enrolled and prospective students when certain conditions have been met. These proposed disclosures would not change any other required disclosures of Subpart D of Student Assistance General Provisions.

The following data will be used throughout this section: For the year 2014, there were 2,301 institutions that reported to IPEDS that they had students attending a program through distance education as follows:

1,172 public institutions reported students attending a program through distance education;

761 private, not-for-profit institutions reported students attending a program through distance education;

368 private, for-profit institutions reported students attending a program through distance education.

Public Disclosures - §668.50(b)

Under proposed §668.50(b)(1), an institution would be required to disclose whether or not the program offered through distance education or correspondence courses is authorized by each State in which enrolled students reside. If an institution is authorized through a State authorization reciprocity agreement, the institution would be required to disclose its authorization status under such an agreement.

Under proposed §668.50(b)(2)(i), an institution authorized by a State agency would be required to disclose the process for submitting complaints to the appropriate State agency in the State in which the main campus of the institution is located, including contact information for the appropriate individuals at those State agencies that handle consumer complaints.

Under proposed §668.50(b)(2)(ii), an institution authorized by a State authorization reciprocity agreement would be required to disclose the complaint process established by the reciprocity agreement, if the agreement established such a process. An institution would be required to provide a contact responsible for handling such complaints, as set out in the State authorization reciprocity agreement.

Under proposed §668.50(b)(3), an institution would be required to disclose the process for submitting complaints to the appropriate State agency in the State in which enrolled students reside, including contact information for the appropriate individuals at those State agencies that handle consumer complaints.

Under proposed §668.50(b)(4), an institution would be required to disclose any adverse actions a State entity has initiated related to the institution's distance education programs or correspondence courses for a five calendar year period prior to the year in which the institution makes the disclosure.

Under proposed §668.50(b)(5) an institution would be required to disclose any adverse actions an accrediting agency has initiated related to the institution's distance education programs or correspondence courses for a five calendar year period prior to the year in which the institution makes the disclosure.

Under proposed §668.50(b)(6), an institution would be required to disclose any refund policies for the return of unearned tuition and fees with which the institution is required to comply by any State in which the institution enrolls students in a distance education program or correspondence courses. This disclosure would require publication of the State-specific requirements on the refund policies as well as any institutional refund policies that would be applicable to students enrolled in programs offered through distance education or correspondence courses with which the institution must comply.

Under proposed §668.50(b)(7), an institution would be required to disclose the applicable educational prerequisites for professional licensure or certification which the program offered through distance education or correspondence course prepares the student to enter for each State in which students reside, and for which the institution has made a determination regarding such prerequisites. For any State for which an institution has not made a determination with respect to the licensure or certification requirement, an institution would be required to disclose a statement to that effect.

We anticipate that institutions will provide this information electronically to enrolled and prospective students regarding their distance education or correspondence courses. We estimate that the seven public disclosure requirements would take institutions an average of 15 hours to research, develop, and post on a Web site.

<u>Affected entity</u>	<u># of Respondents</u>	<u># of Responses</u>	<u>Hrs/Response</u>	<u>Total Burden</u>
Public Institutions	1,172	1,172	X 15 hours	17,580 hours
Private Institutions	761	761	X 15 hours	11,415 hours
<u>For Profit Institutions</u>	<u>368</u>	<u>368</u>	<u>X 15 hours</u>	<u>5,520 hours</u>
SUBTOTAL	2,301	2,301		34,515 hours

The subtotal estimated burden for proposed §668.50(b) would be 34,515 hours under OMB Control Number 1845-NEW2.

Individualized Disclosures

Under proposed §668.50(c)(1)(i), an institution would be required to provide an individualized disclosure to prospective students when it determines a program offered solely through distance education or correspondence courses does not meet licensure or certification prerequisites in the State of the student's residence.

Under proposed §668.50(c)(1)(ii), an institution would be required to provide an individualized disclosure to both enrolled and prospective students within 30 days of when it becomes aware of any adverse action initiated by a State or an accrediting agency related to the institution's programs offered through distance education or correspondence courses; or within seven days

of the institution's determination that a program ceases to meet licensure or certification prerequisites of a State.

For prospective students who receive any individualized disclosure and subsequently enroll, proposed §668.50(c)(2) would require an institution to obtain an acknowledgment from the student that the communication was received prior to the student's enrollment in the program. The Department believes this can be solved relatively easily by including attestation as part of a student's enrollment agreement or other paperwork required for new students by the institution, which an institution would already prepare and maintain.

We anticipate that institutions will provide this information electronically to enrolled and prospective students regarding their distance education or correspondence courses. We estimate that institutions would take an average of 2 hours to develop the language for the individualized disclosures. We estimate that it would take an additional average of 4 hours for the institution to individually disclose this information to enrolled and prospective students for a total of 6 hours of burden to the institutions.

We estimate that five percent of institutions would meet the criteria to require these individual disclosures.

<u>Affected entity</u>	<u># of Respondents</u>	<u># of Responses</u>	<u>Hrs/Response</u>	<u>Total Burden</u>
Public Institutions	59	59	X 6 hours	354 hours
Private Institutions	38	38	X 6 hours	228 hours
<u>For Profit Institutions</u>	<u>18</u>	<u>18</u>	<u>X 6 hours</u>	<u>108 hours</u>
SUBTOTAL	115	115		690 hours

The subtotal estimated burden for proposed §668.50(c) would be 690 hours under OMB Control Number 1845-NEW2.

<u>Affected entity</u>	<u># of Respondents</u>	<u># of Responses</u>	<u>Total Burden</u>
Public Institutions	1,172	1,231	17,934 hours
Private Institutions	761	799	11,643 hours
<u>For Profit Institutions</u>	<u>368</u>	<u>386</u>	<u>5,628 hours</u>
SUBTOTAL	2,301	2,416	35,205 hours

The combined total estimated burden for proposed §668.50 would be 35,205 hours (34,515 + 690) under OMB Control Number 1845-NEW2.

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

Public Institutions	\$ 655,488
Private Institutions	\$ 425,552
<u>For Profit Institutions</u>	<u>\$ 205,703</u>
TOTAL	\$ 1,286,743

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 additional cost aside from that identified in item 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.

There is no additional cost to the Federal government.

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 is a request for a new information collection due to a program change based on proposed regulations. The Department is requesting an increase in burden of 35,205 hours for 2,301 institutional respondents.

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