

The Department of Education (the Department) amends 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 – Subpart D – Institutional and Financial Assistance Information for §668.41 - Reporting and disclosure of information. These regulations are a result of negotiated rulemaking and would add new requirements to the current regulations.

These regulations are intended to ensure that current and prospective students are provided with warnings through individual notification or group notification if a proprietary institution's repayment rate, as calculated by the Department, meets specified criteria and that such required rate information are prominently included in all promotional materials. Additionally, current and prospective students must be provided with warnings through individual notification or group notification if the Department requires a private or proprietary institution to provide financial protections, such as a letter of credit based on specified criteria. The regulations also provide for a challenge process for proprietary institutions regarding the Department's repayment rate calculations.

Section §668.41--Reporting and disclosure of information.

Under §668.41(h) the institution must deliver a warning about its repayment outcomes to enrolled and prospective students and would expand the reporting and disclosure requirements under §668.41. Specifically the regulations provide that, for any fiscal year in which a proprietary institution's loan repayment rate shows that the median borrower has not paid down the balance of the borrower's loan by at least \$1, the institution must provide a loan repayment warning in advertising and promotional materials. Institutions with fewer than 10 borrowers, or demonstrates that it has borrowers in non-Gainful Employment programs who would increase the institution's repayment rate to meet the negative amortization threshold if included in the calculation, would not be required to make the disclosure.

The process through which a proprietary institution will be informed of its repayment rate, and provided the opportunity to appeal that rate, is included in §668.41(h)(2). The Department notifies each institution of its repayment rate. The institution has 15 days following the date it receives its repayment rate to appeal to the Department based on the 2 conditions in §668.41(h)(4). After considering any appeal of the repayment rate, the Department notifies the institution of its final repayment rate.

Under §668.41(h)(3), all promotional materials made available by or on behalf of an institution to prospective and enrolled students must include the loan repayment warning in a form, place and manner prescribed by the Secretary in a notice in the Federal Register. All promotional materials, including printed materials, about an institution must be accurate and current at the time they are published, approved by a State agency or broadcast.

There will be burden to review the repayment rate identified in §668.41(h)(1) and to submit an appeal to the accuracy of the information as provided in §668.41(h)(2).

For the repayment rate review we estimate it will take 972 institutions 30 minutes to review the information to determine if it meets one of the appeal conditions.

Additionally, we estimate one percent or 10 institutions will meet the appeal criteria and require 2.5 hours to produce the required evidence and submit the appeal to the Secretary.

We anticipate only 5 of the 10 institutions will be successful in meeting the appeal and 967 proprietary institutions will be required to include the loan repayment warning in their promotional materials. We estimate that the 967 institutions will require 5 hours to update their materials, based on the language provided in the notice published in the Federal Register.

Affected entity	# of Respondents	# of Responses	Hrs/Response	Burden	
Proprietary Institutions	972	972	x .5 hours	486 hours	
		*	10	x 2.5 hours	25 hours
		*	967	x 5 hours	4,835 hours
Section Subtotal	972	1,949		5,346 hours	

*The respondent count is not added to each subtotal count to avoid over counting the affected entities.

Under §668.41(i), institutions that are required to provide financial protection will have to disclose information about that requirement to both enrolled and prospective students for a 12 month period following the date of the notification by the Department.

The financial protection disclosure under §668.41(i) must be provided to both enrolled and prospective students by hand delivery as part of a separate document to the student individually or as part of a group presentation. Alternatively, the warning or disclosure may be sent to the primary email address or other electronic communication method used by the institution for communicating with the student. In all cases, the institution must ensure that the disclosure is the only substantive content in the message unless the Secretary specifies additional, contextual language to be included in the message. Prospective students must be provided with the warning or disclosure before the student enrolls, registers, or enters into a financial obligation with the institution.

There will be burden on schools to deliver the financial repayment disclosure to enrolled and prospective students under this regulation.

The Department commits to consumer test the language and the specific actions and events triggering the warning. We are not estimating burden on these activities at this time. Prior to implementation of the regulatory requirements, after the consumer testing has concluded, there will be an information clearance review package submitted to allow for public comment.

The combined total increase in burden under OMB Control Number 1845-0004 for final §668.41 will be 5,346 hours.

TOTALS

Responses	1,949
Respondents	972
Burden Hours	5,346