

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 in §§668.14, 668.171 and 668.175.. These regulations are a result of negotiated rulemaking and would add new requirements to the current regulations.

These 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 regulations in §668.171 include conditions and events that trigger a requirement that the school provide financial protection, such as a letter of credit. The regulations in §668.175 identifies the amounts of financial protection, such as letters of credit, required in the event of particular occurrences identified in §668.171.

Section §668.14--Program participation agreement.

Under §668.14(b)(32) as part of the program participation agreement, an institution will 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:

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 38 proprietary institutions that will close a total of 1,613 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.

§668.171 Financial responsibility. General.

Under §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 §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 392 proprietary institutions may have 3 events annually to report for a total burden of 2,352 hours (392 institutions x 3 events x 2 hours).

§668.175 Alternative standards and requirements.

Under the provisional certification alternative in §668.175, we propose to add a new paragraph (f)(4) that requires an institution to provide the Secretary financial protection upon the occurrence of an action or triggering event described in §668.171(c), if the event warrants protection as determined in §668.175(f)(4).

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

TOTALS

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| Responses | 11,434 |
| Respondents | 430 |
| Burden Hours | 51,005 |