

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and the burden of responding, the Department provides the general public and federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This requirement helps ensure that: The public understands the Department's collection instructions; respondents can provide the requested data in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the Department can properly assess the impact of collection requirements on respondents.

The following sections contain information collection requirements:

Section 106.45(b)(7)--Recordkeeping

Section 106.45(b)(7) would require recipients to maintain certain documentation regarding their Title IX activities. LEAs and IHEs would be required to create and maintain for a period of three years records of: Sexual harassment investigations; determinations; appeals; disciplinary sanctions and remedies; informal resolutions; materials used to train coordinators, investigators, and decision-makers; any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment; and documentation of the bases upon which the recipient concluded that its response was not clearly unreasonable and that its measures taken were designed to restore or preserve access to the recipient's educational program or activity. This information will allow a recipient and OCR to assess on a longitudinal basis the prevalence of sexual harassment affecting access to a recipient's programs and activities, whether a recipient is complying with Title IX when responding to reports and formal complaints, and the necessity for additional or different training. We estimate the volume of records to be created and retained may represent a decline from current recordkeeping due to clarification elsewhere in the proposed regulations that no investigation needs to be conducted where allegations, if true, do not constitute sexual harassment as defined under the regulations, and that informal means may be used to resolve sexual harassment complaints, both changes likely resulting in fewer investigative records being generated.

We estimate that recipients would have a higher first-year cost associated with establishing the system for documentation with a lower out-year cost for maintaining it. At the LEA level, we assume that the Title IX Coordinator would spend 4 hours in Year 1 establishing the system and an administrative assistant would spend 8 hours doing so. At the IHE level, we assume recipients are less likely to use a paper filing system and are likely to use an electronic database for managing such information. Therefore, we assume it will take a Title IX Coordinator 24 hours, an administrative assistant 40 hours, and a database administrator 40 hours to set up the system for a total Year 1 estimated cost for 16,606 LEAs and 6,766 IHEs of approximately \$38,836,760.

In later years, we assume that the systems will be relatively simple to maintain. At the LEA level, we assume it will take the Title IX Coordinator 2 hours and an administrative assistant 4 hours to do so. At the IHE level, we assume 4 hours from the Title IX Coordinator, 40 hours from an administrative assistant, and 8 hours from a database administrator. In total, we estimate an ongoing cost of approximately

\$15,189,260 per year.

We estimate that LEAs would take 12 hours and IHEs would take 104 hours to establish and maintain a recordkeeping system for the required sexual harassment documentation during Year 1. In out-years, we estimate that LEAs

[[Page 61494]]

would take 6 hours annually and IHEs would take 52 hours annually to maintain the recordkeeping requirement for Title IX sexual harassment documentation. The total burden for this recordkeeping requirement over three years is 398,544 hours for LEAs and 1,407,328 hours for IHEs. Collectively, we estimate the burden over three years for LEAs and IHEs for recordkeeping of Title IX sexual harassment documents would be 1,805,872 hours under OMB Control Number 1870-NEW.

Section 106.44(b)(3)

Section 106.44(b)(3) applies only to IHEs and would require that where a complainant reports sexual harassment but does not wish to file a formal complaint, the IHE would have a safe harbor against a finding of deliberate indifference where it offers the complainant supportive measures, but must inform the complainant in writing of the complainant's right to file a formal complaint. This information provided by IHEs to complainants will ensure that complainants receive supportive measures to assist them in the aftermath of sexual harassment and also remain aware of their right to file a formal complaint that requires the IHE to investigate the sexual harassment allegations.

We estimate that most IHEs will need to create a form, or modify a form they already use, to comply with this requirement to inform the complainant in writing. We estimate that it will take Title IX Coordinators one (1) hour in Year 1 to create or modify a form to use for these purposes, that there will be no cost in out-years, and that the cost of maintaining such a form is captured under the recordkeeping requirements of Sec. 106.45(b)(7) described above, for a total Year 1 cost of \$441,270. Total burden for this requirement over three years is 6,766 hours.

Section 106.45(b)(2)--Notice of Allegations

Section 106.45(b)(2) would require all recipients, upon receipt of a formal complaint, to provide written notice to the complainant the respondent, informing the parties of the recipient's grievance procedures and providing sufficient details of the sexual harassment allegations being investigated. This written notice will help ensure that the nature and scope of the investigation, and the recipient's procedures, are clearly understood by the parties at the commencement of an investigation.

We estimate that most LEAs and IHEs will need to create a form, or modify one already used, to comply with these requirements. We estimate that it will take Title IX Coordinators one (1) hour to create or modify a form to use for these purposes, and that an attorney will spend 0.5 hours reviewing the form for compliance with Sec. 106.45(b)(2). We estimate there will be no cost in out-years, and that the cost of maintaining such a form is captured under the recordkeeping requirements of Sec. 106.45(b)(7) described above, for a total Year 1

cost of \$2,584,310. Total burden for this requirement over three years is 35,058 hours.

Section 106.45(b)(6)--Informal Resolution

Section 106.45(b)(6) would require that recipients who wish to provide parties with the option of informal resolution of formal complaints, may offer this option to the parties but may only proceed by: First, providing the parties with written notice disclosing the sexual harassment allegations, the requirements of an informal resolution process; any consequences from participating in the informal resolution process; and second, obtaining the parties' voluntary, written consent to the informal resolution process.

This provision permits--but does not require--LEAs and IHEs to allow for voluntary participation informal resolution as a method of resolving the allegations raised in formal complaints without completing the investigation and adjudication.

We estimate that not all LEAs or IHEs will choose to offer informal resolution as a feature of their grievance process; of those who do, we estimate that most will need to create a form, or modify one already used, to comply with the requirements of this section. We estimate that it will take Title IX Coordinators one (1) hour to create or modify a form to use for these purposes, and that an attorney will spend 0.5 hours reviewing the form for compliance with Sec. 106.45(b)(6). We estimate there will be no cost in out-years, and that the cost of maintaining such a form is captured under the recordkeeping requirements of Sec. 106.45(b)(7) described above, for a total Year 1 cost of \$2,584,310. The total burden for this requirement over three years is 35,058 hours.

Collection of Information

Regulatory section	Information collection	OMB control No. and estimated burden [change in burden]
106.45(b)(7).....	This proposed regulatory provision would require LEAs and IHEs to maintain certain documentation related to Title IX activities.	OMB 1870-NEW. The burden over the first three years would be \$69,215,280 and 1,805,872 hours.
106.44(b)(3).....	This proposed regulatory provision would require IHEs who offer supportive measures to notify the complainant of the right to file a formal complaint.	OMB 1870-NEW. The burden over the first three years would be \$441,270 and 6,766 hours.
106.45(b)(2).....	This proposed regulatory provision would require LEAs and IHEs to provide parties with written notice when	OMB 1870-NEW. The burden over the first three years would be \$2,584,310 and 35,058 hours.

investigating a formal
complaint.

106.45(b)(6)..... This proposed regulatory provision would require LEAs and IHEs to provide written notice to parties wishing to participate in informal resolution of a formal complaint.

OMB 1870-NEW. The burden over the first three years would be \$2,584,310 and 35,058 hours.
