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

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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

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OMB control No. and

Regulatory section Information collection estimated burden

[change in burden]

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106.45(b)(7)........... This proposed OMB 1870-NEW. The

regulatory provision burden over the first

would require LEAs and three years would be

IHEs to maintain $69,215,280 and

certain documentation 1,805,872 hours.

related to Title IX

activities.

106.44(b)(3)........... This proposed OMB 1870-NEW. The

regulatory provision burden over the first

would require IHEs who three years would be

offer supportive $441,270 and 6,766

measures to notify the hours.

complainant of the

right to file a formal

complaint.

106.45(b)(2)........... This proposed OMB 1870-NEW. The

regulatory provision burden over the first

would require LEAs and three years would be

IHEs to provide $2,584,310 and 35,058

parties with written hours.

notice when

investigating a formal

complaint.

106.45(b)(6)........... This proposed OMB 1870-NEW. The

regulatory provision burden over the first

would require LEAs and three years would be

IHEs to provide $2,584,310 and 35,058

written notice to hours.

parties wishing to

participate in

informal resolution of

a formal complaint.

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