

## **SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION**

### **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 section<sup>1</sup>. 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 (the Department) amends the Student Assistance General Provisions regulations to implement changes to §668.26 – End of an institution’s participations in the Title IV,HEA programs and §668.43 – Financial assistance information . These final regulations are a result of negotiated rulemaking in early 2019 and will add new requirements to the current regulations.*

*The final regulations in §668.26 will allow the Secretary to permit an institution that has ended its participation in title IV programs to continue to originate, award, or disburse title IV funds for up to 120 days under specific circumstances. There is no form/format for an institution to make this request. The institution must provide such a request and additional written assurances to the Department in writing.*

*The final regulations in §668.43 will put in place new institutional disclosure requirements or revise current institutional disclosure requirements. There is no specific form or format for the institutions to provide this information and it does not have to be provided separately to the Department. Most institutions make the required disclosures available electronically on institutional or program web pages.*

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.

*This final information will be made available through various disclosures and used by enrolled and prospective students who are interested in educational programs offered by an institution.*

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 prevents the use of technology in the dissemination of the required information by the institution.*

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<sup>1</sup> Please limit pasted text to no longer than 3 paragraphs.

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.

*Due to the availability of technology to meet these disclosure activities, the Department does not believe the final 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 final regulations does not take place, institutions could run the risk of not meeting eligibility requirements and potentially face the loss of eligibility to participate in the title IV HEA student aid 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 final regulations after conducting negotiated rulemaking with affected entities and other interested parties. The public comment period for this information collection package ran concurrently with the Notice of Proposed Rulemaking published June 12, 2019 (Federal Register Vol. 84, No. 113, pages 27404-27492). Several commenters disagreed with the proposed estimated time regarding the licensure and certification disclosure requirements. The Department noted that it does not require that an institution determine licensure and certification requirements for their eligible programs for each State. The regulations allow for an institution to inform students that it has not made such a determination and comply with the regulations. Additionally, some of the information needed for the disclosures is information the institution has already been reporting so there is minimal new work required. The Department has not made an adjustment to the estimated burden hours as presented in 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 or 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.<sup>2</sup> If the

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<sup>2</sup> 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

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.

*For the final regulations in §668.26 the Secretary may permit an institution that has ended its participation in title IV programs to continue to originate, award, or disburse title IV funds for up to 120 days under specific circumstances. Generally, the institution must notify the Secretary of its plans to conduct an orderly closure in accordance with its accrediting agency, teach out its students, agree to abide by the conditions of the program participation agreement in effect at the*

time of the decision, and provide written assurances of the health and safety of the students, the adequate financial resources to complete the teach-out and the institution is not subject to adverse action by the institution's State authorizing body or the accrediting agency.

We estimate that, on average, an institution will need 5 hours to draft, and finalize for the appropriate institutional management signature, the written request for extension of the eligibility from the Secretary. We anticipate that 5 institutions may utilize this opportunity annually. The estimated burden for §668.26 will be 25 hours under OMB Control Number 1845-0156.

<u>Affected entity</u>	<u># of Respondents</u>	<u># of Responses</u>	<u>Hrs/Response</u>	<u>Total Burden</u>
Public Institutions	1	1	X 5 hours	5 hours
Private Institutions	2	2	X 5 hours	10 hours
<u>For Profit Institutions</u>	<u>2</u>	<u>2</u>	<u>X 5 hours</u>	<u>10 hours</u>
TOTAL	5	5		25 hours

The final regulations in §668.43(a)(5) will require an institution to disclose whether the program would fulfill educational requirements for licensure or certification if the program is designed to or advertised as meeting such requirements. Institutions will be required to disclose, for each State, whether the program did or did not meet such requirements, or whether the institution had not made such a determination.

We anticipate that most institutions will provide this disclosure information electronically on either the general institution website or individual program websites as required. Using data from the National Center for Educational Statistics, there were approximately 226,733 certificate and degree granting programs in 2017 identified for the public, private and proprietary sectors. Of those, public institutions offered 134,387 programs, private institutions offered 70,678 programs, and proprietary institutions offered 21,668 programs.

For § 668.43(a)(5)(v), we estimate that five percent or 11,337 of all programs will be designed for specific professional licenses or certifications required for employment in an occupation or is advertised as meeting such State requirements. We further estimate that it will take an institution an estimated 50 hours per program to research individual State requirements, determine program compatibility and provide a listing of the States where the program curriculum meets the State requirements, where it does not meet the State requirements, or list the States where no such determination has been made. We base this estimate on institutions electing not to research and report licensing requirements for States in which they had no enrollment or expressed interest. Additionally, we believe that some larger institutions and associations have gathered such data and have shared it with other institutions so there is less burden as the research has been done. The estimated burden for §668.43(a)(5) will be 566,850 hours under OMB Control Number 1845-0156.

<u>Affected entity</u>	<u># of Respondents</u>	<u># of Responses</u>	<u>Hrs/Response</u>	<u>Total Burden</u>
Public Institutions	1,860	6,719	X 50 hours	335,950 hours
Private Institutions	1,704	3,534	X 50 hours	176,700 hours
<u>For Profit Institutions</u>	<u>1,783</u>	<u>1,084</u>	<u>X 50 hours</u>	<u>54,200 hours</u>

TOTAL	5,347	11,337	566,850 hours
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*The final regulations in § 668.43(a)(11) will revise the information about an institution's transfer of credit policies to require the disclosure of any types of institutions from which the institution will not accept transfer credits. Institutions will also be required to disclose any written criteria used to evaluate and award credit for prior learning experience.*

*The final regulations in § 668.43(a)(12) will require institutions to provide disclosures regarding written arrangements under which an entity other than the institution itself provides all or part of a program be included in the description of that program.*

*The final regulations will add disclosure requirements that are in statute but not reflected fully in the regulations as well as new disclosure requirements. These disclosures include: In § 668.43(a)(13), the percentage of the institution's enrolled students disaggregated by gender, race, ethnicity, and those who are Pell Grant recipients; in § 668.43(a)(14) placement in employment of, and types of employment obtained by, graduates of the institution's degree or certificate programs; in § 668.43(a)(15) the types of graduate and professional education in which graduates of the institution's four-year degree programs enrolled; in § 668.43(a)(16) the fire safety report prepared by the institution pursuant to §668.49; in § 668.43(a)(17) the retention rate of certificate- or degree-seeking, first-time, full-time, undergraduate students; and in § 668.43(a)(18) institutional policies regarding vaccinations.*

*The final regulations in § 668.43(a)(19) will require an institution to disclose to students if its accrediting agency requires it to maintain a teach-out plan under § 602.24(c)(1), and to indicate the reason why the accrediting agency required such a plan.*

*The final regulations in § 668.43(a)(20) will require that an institution disclose students if it is aware that it is under investigation by a law enforcement agency for an issue related to academic quality, misrepresentation, fraud, or other severe matters.*

*For § 668.43(a)(11) through (20), we estimate that it will take institutions an average of 2 hours to research, develop and post on institutional or programmatic web sites the required information. The estimated burden for §668.43(a)(13) through (20) will be 10,694 hours 1845-0156.*

<u>Affected entity</u>	<u># of Respondents</u>	<u># of Responses</u>	<u>Hrs/Response</u>	<u>Total Burden</u>
Public Institutions	*	1,860	X 2 hours	3,720 hours
Private Institutions	*	1,704	X 2 hours	3,408 hours
<u>For Profit Institutions</u>	*	1,783	X 2 hours	3,566 hours
TOTAL	*	5,347		10,694 hours

*The final regulations will add a new paragraph (c) to § 668.43, requiring an institution to make direct disclosures to individual students in certain circumstances. Institutions will be required to disclose to a prospective student that the program in which they intended to enroll did not meet the educational requirements for licensure in the State in which the student was located, or if such a determination of whether the program met the licensure requirements in that State had*

not been made. We will also require an institution to make a similar disclosure to a student who was enrolled in a program previously meeting those requirements which ceased to meet the educational requirements for licensure in that State. The final regulations will hold the institutions responsible for establishing and consistently applying policies for determining the State in which each of its students is located. Such a determination will have to be made at the time of initial enrollment, and upon receipt of information from the student, in accordance with institutional policies, that his or her location had changed to another State. The final regulations require institutions to provide the Secretary, on request, with written documentation of its determination regarding a student's location.

For § 668.43(c), we anticipate that institutions will provide this information electronically to prospective students regarding the determination of a program's curriculum to meet State requirements for students located in that State or if no such determination has been made. Likewise, we anticipate that institutions will provide this information electronically to enrolled students when a determination has been made that the program's curriculum no longer meets State requirements. We estimate that institutions will take an average of 2 hours to develop the language for the individualized disclosures. We estimate that it will take an additional average of 4 hours for the institutions to disclose this information to prospective and enrolled students for a total of 6 hour of burden. We estimate that five percent of the institutions will meet the criteria to require these disclosures. The estimated burden for §668.43(c) will be 1,602 hours 1845-0156.

<u>Affected entity</u>	<u># of Respondents</u>	<u># of Responses</u>	<u>Hrs/Response</u>	<u>Total Burden</u>
Public Institutions	1,860 x5%	93	X 6 hours	558 hours
Private Institutions	1,704 x5%	85	X 6 hours	510 hours
<u>For Profit Institutions</u>	<u>1,783 x5%</u>	<u>89</u>	<u>X 6 hours</u>	<u>534 hours</u>
TOTAL	*	267		1,602 hours

We estimate the cost to institutional respondents, based on \$45.36 per burden hour, rounded to the nearest dollar, will be:

Public Institutions	\$ 15,432,969
Private Institutions	\$ 8,193,286
<u>For Profit Institutions</u>	<u>\$ 2,644,942</u>
TOTAL	\$ 26,271,197

Total of final burden:

<u># of Respondents</u>	<u># of Responses</u>	<u>Total Burden</u>	<u>Cost</u>
5,347	16,956	579,171	\$ 26,271,197

\*The universe of respondents count is not summed to avoid a duplicate count of respondents.

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 final regulations. The Department is requesting an accounting of burden of 579,171 hours for 5,347 institutions of higher education 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.

*The Department has no plans to publish this information.*

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.*