



UNITED STATES DEPARTMENT OF EDUCATION

January 14, 2021

MEMORANDUM

TO: Lindsay Abate
Office of Management and Budget Desk Officer

FROM: Hilary Malawer
Deputy General Counsel

RE: Emergency request for Paperwork Reduction Act (PRA) approval

Pursuant to the Office of Management and Budget (OMB) procedures established at 5 CFR 1320, ED requests that the following collection of information, Foreign Institution Reporting Requirements under Section 3510 of the CARES Act, be processed in accordance with section 1320.13 Emergency Processing. ED has determined that this information must be collected prior to the expiration of time periods established under Part 1320, and that this information is essential to the ED's ability to effectively implement section 3510 of the CARES Act, Pub. L. No. 116-136 (March 27, 2020) and address the economic disruption posed by the Novel (new) Coronavirus ("2019-nCoV").

Section 3510(a) of the CARES Act, Pub. L. No. 116-136 (March 27, 2020), authorizes the Secretary of Education ("Secretary") to permit a foreign institution, in the case of a public health emergency, major disaster or emergency, or national emergency declared by the applicable government authorities in the country in which the foreign institution is located, to provide any part of an otherwise eligible program to be offered via distance education for the duration of such emergency or disaster and the following payment period for purposes of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

Additionally, under Section 3510(d) of the CARES Act, the Secretary may allow a foreign institution to enter into a written arrangement with an institution of higher education located in the United States that participates in the Federal Direct Loan Program under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) for the purpose of allowing a student of the foreign institution who is a borrower of a loan made under such part to take courses from the institution of higher education located in the United States.

The CARES Act requires foreign institutions that use either type of authority described above to report such use to the Secretary. Institutions are required to report such use during

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payment periods in the 2019-2020 award year no later than June 30, 2020, and any use during subsequent payment periods 30 days after the end of the payment period.

ED is requesting an emergency clearance to facilitate the flexibility provided by the CARES Act. The reporting language for which ED is requesting approval will be used by foreign institutions to report their participation in distance education programs or written arrangements with institutions of higher education in the United States.

If this emergency collection is not approved, the Department will be unable to submit the Report to Congress, as required in the statute, in a timely manner. Approval of this emergency request will particularly benefit foreign institutions that have experienced the educational disruptions caused by 2019-nCoV in order to support their U.S. students and the resumption of educational operations.

Given the short timeframe, ED is unable to consult with the public prior to issuing the forms. However, ED has ample experience designing other similar forms in a way that is clear and minimizes burden. We estimate that the reporting mechanism we have created for foreign institutions will require 30 minutes to complete.

ED requests approval of the submission by April 29, 2020. Given the inability to seek public comment during such a short timeframe, ED requests a waiver of the requirement to publish a notice in the Federal Register seeking public comment during the period of OMB review. Public comment on the request to collect this information beyond the emergency clearance period will be solicited within a reasonable timeframe, but not later than May 30, 2020.