

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

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 section¹. 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.

This information collection is an extension of an existing collection. It is required by

- Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. 2000d, 34 C.F.R. 100.4 (prohibits discrimination on the basis of race, color or national origin by any program or activity receiving Federal financial assistance, https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title34/34cfr100_main_02.tpl);
- Title IX of the Education Amendments of 1972, as amended (Title IX), 20 U.S.C. 1681, 34 C.F.R. 106.4 (prohibits discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title34/34cfr106_main_02.tpl);
- Section 504 of the Rehabilitation Act of 1973, as amended (Section 504), 29 U.S.C. 794, 34 C.F.R. 104.5 (prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance, https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title34/34cfr104_main_02.tpl);
- The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, 34 C.F.R. 110.23 (prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance, https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title34/34cfr110_main_02.tpl); and
- The Boy Scouts of America Equal Access Act of 2001 (Boy Scouts Act), 20 U.S.C. 7905, 34 C.F.R. 108.8 (requires equal access for the Boy Scouts of America and other designated youth groups to meet at public elementary and secondary schools that receive funds made available through the Department of Education (Department), https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title34/34cfr108_main_02.tpl).

These laws require that applicants for Federal financial assistance from the Department, as well as certain applicants for funds made available through the Department, submit an assurance of compliance to the Department assuring that they will comply with these laws.

¹ Please limit pasted text to no longer than 3 paragraphs.

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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.

OCR uses the signed Assurance of Compliance – Civil Rights Certificate forms to enforce Title VI, Title IX, Section 504, the Age Discrimination Act, and the Boy Scouts Act. Assurances are an efficient and effective tool for achieving compliance with the laws enforced by OCR.

Respondents only need to sign the Assurance of Compliance – Civil Rights Certificate once; OCR keeps the signed assurances forms on file.

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.

The Assurance of Compliance – Civil Rights Certificate form is available electronically on OCR's website. We are in the process of revising the form so that, while the substance of the form is the same, going forward, applicants or recipients may fill out, sign, and submit the form electronically. Applicants and recipients also have the option of printing the form, filling it out by hand, and submitting the signed form by traditional (paper) mail.

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.

No other component of the Department collects these particular assurances of compliance with civil rights laws.

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.

This collection of information will not have a significant economic impact on a substantial number of small businesses or other small entities.

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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 OCR does not collect signed Assurance of Compliance – Civil Rights Certificate forms, OCR’s ability to enforce Title VI, Title IX, Section 504, the Age Discrimination Act, and the Boy Scouts Act will be affected. When entities accept Federal financial assistance from, or funds made available through, the Department, they are subject to these civil rights laws. By providing signed Assurance of Compliance – Civil Rights Certificate forms, these entities agree to comply with the civil rights laws and are put on notice that failure to comply with the civil rights laws could result in the loss of Federal financial assistance or funds made available through the Department.

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.

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None of the eight special circumstances apply to the Assurance of Compliance – Civil Rights Certificate form.

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 published a 60-day Federal Register notice on March 10, 2021, and received three public comments in response.²

The first commenter recommended that Section 1557 of the Affordable Care Act, 42 U.S.C. 18116, should be added to the Assurance of Compliance – Civil Rights Certificate form. The commenter cited two memoranda from the Department of Health and Human Services to support the point that, in 2015-2016, that agency encouraged other agencies to enforce Section 1557 with respect to health programs and activities that they fund. In contrast to the five laws currently listed on the form, however, OCR does not have a regulation that requires collection of assurances of compliance with Section 1557. OCR declines to modify the Assurance of Compliance – Civil Rights Certificate form on the basis of this recommendation.

The second commenter recommended that the Department should amend the Assurance of Compliance – Civil Rights Certificate form to provide additional information about the scope of Title IX, Title VI, and Section 1557. This commenter also suggested adding language to the form to provide additional information about certain civil rights obligations of recipients, including the obligation to post notices of non-discrimination; the obligation to appoint coordinators for Title IX, Section 504, and the Age Discrimination Act; and the obligation to establish grievance procedures. While more detailed information about the laws listed on the form may be helpful to some recipients, supplemental information is already publicly available on OCR's website for recipients who would like to learn more.³ Providing more detailed information about some, but not all, of the requirements of the laws listed on the form could also

² Agency Information Collection Activities; Comment Request; Assurance of Compliance—Civil Rights Certificate, 86 Fed. Reg. 13701 (Mar. 10, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-03-10/pdf/2021-04921.pdf>.

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be confusing, especially with respect to requirements that are not described in detail on the form. Emphasizing a subset of applicants' responsibilities on the form could give the false impression that some of the recipients' civil rights obligations are more important or mandatory, than others. OCR declines to modify the Assurance of Compliance – Civil Rights Certificate form on the basis of this recommendation.

The third commenter, on behalf of a non-profit organization, provided a discussion of “Chinese fiat currency” and a recommendation that the Department use “new information technology known as SLIP” for data collection. These recommendations are beyond the scope of this form, and OCR declines to modify the Assurance of Compliance – Civil Rights Certificate form or the Department’s technology platforms on the basis of these recommendations.

The Department published a 30-day Federal Register notice.

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 are made or provided to any respondent.

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.⁴ If the 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.

The Department makes no pledge about the confidentiality of the data.

³ www.ed.gov/ocr; for an overview of Title VI, see <https://www2.ed.gov/policy/rights/guid/ocr/raceoverview.html>; for an overview of Title IX, see <https://www2.ed.gov/policy/rights/guid/ocr/sexoverview.html>; for an overview of Section 504, see <https://www2.ed.gov/policy/rights/guid/ocr/disabilityoverview.html>; for an overview of the Age Discrimination Act, see <https://www2.ed.gov/policy/rights/guid/ocr/ageoverview.html>; and for an overview of show cause why you should not be removed and/or sanctioned for failing to perform your timely duties as follows, <https://www2.ed.gov/policy/rights/guid/ocr/boyscouts.html> show cause why you should not be removed and/or sanctioned for failing to perform your timely duties as follows

⁴ 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 Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002, OMB M-06-15 – Safeguarding Personally Identifiable Information, OM:6-104 – Privacy Act of 1974 (Collection, Use and Protection of Personally Identifiable Information)

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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 on the Assurance of Compliance – Civil Rights Certificate form.

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.

Respondents only need to review and sign the one-page Assurance of Compliance – Civil Rights Certificate form once. OCR keeps the signed Assurance of Compliance – Civil Rights Certificate forms on file, and the signed forms apply to all future applications by the respondents for Federal financial assistance from, or funds made available through, the Department. Once OCR has a completed Assurance of Compliance – Civil Rights Certificate from a respondent, OCR does not ask that respondent again for another completed form.

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Occasionally, OCR receives requests for blank Assurance of Compliance – Civil Rights Certificate forms. These requests could be made by, for example, a new charter school that has not previously completed the form. Additionally, if OCR determines, during the course of investigating a complaint alleging a violation of a civil rights law, that a particular recipient of Federal financial assistance has not completed an Assurance of Compliance - Civil Rights Certificate form, OCR might require that the form be signed as part of a resolution agreement. In recent years, OCR has received an average of 25 or so completed forms a year. Since OMB approval would cover 3 years, our best estimate for the total number of respondents is $(3 \text{ years}) \times (25 \text{ respondents per year}) = 75$.

Because respondents only need to sign the Assurance of Compliance - Civil Rights Certificate form once, we have calculated a one-time, rather than an annual, hour burden for each respondent. The one-time hour burden in order to read and sign the Assurance of Compliance - Civil Rights Certificate form is estimated to be 20 minutes per respondent. Thus, the total number of estimated burden hours for collecting and reporting the information over the three year period for which the Assurance of Compliance – Civil Rights Certificate would be approved is estimated to be 25 burden hours: $(75 \text{ recipients}) \times (.33 \text{ hours per recipient})$. The total annual hours, for one year of the three year approval period, is estimated to be 8.33 burden hours: $(22 \text{ state, local and tribal recipients} \times .33 \text{ hours per recipient}) = 7.33 \text{ hours} + (3 \text{ private sector recipients} \times .33 \text{ hours per recipient}) = 1 \text{ hour}$.

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

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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: None

Total Annual Costs (O&M) : None

Total Annualized Costs Requested : None

There is no cost burden to respondents.

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.

The annual burden to the federal government from the OCR assurances form will be 10 minutes per form for approximately 25 forms per year, for a total of 4 hours and 10 minutes spent per year. We have calculated the annual cost burden based on the work being performed by a hypothetical employee at a pay grade no higher than GS 13-10. The hourly rate for a GS 13-10 in the Washington, DC locality is \$67.40/hour, so the total is 4.17 hours x \$67.40 = \$281.05. Thus, we anticipate the annual burden to the federal government to be no higher than \$281.05 per year. The costs to the federal government are minimal.

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).

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There are no program changes or adjustments in burden on collection of information. This is a one-time collection and there is no need to collect signed Assurances of Compliance – Civil Rights Certificate forms from entities that have already submitted a signed form.

Our calculation of the burden on the federal government has increased, from \$262.63 in 2018 to \$281.05 today, because we have opted to calculate the burden using a hypothetical employee at a pay grade no higher than GS 13-10, instead of using the actual salary of the employee performing the task. The estimated burden has increased slightly to reflect an increase in the salary of a GS 13-10 employee from 2018 to present.

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.

Signed Assurance of Compliance - Civil Rights Certificate forms will not be published.

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 seeks approval for not displaying an expiration date on the Assurance of Compliance - Civil Rights Certificate form. The assurances provided on the Assurance of Compliance - Civil Rights Certificate form apply to any Federal financial assistance from, or funds made available through, the Department for which a respondent may apply. A respondent only has to submit a signed Assurance of Compliance - Civil Rights Certificate form to OCR once, no matter what funds or financial assistance it seeks from the Department. The display of an expiration date on the Assurance of Compliance - Civil Rights Certificate form will cause confusion concerning the length of time for which the assurance is valid, in that it will imply that respondents have to submit new assurances after the expiration date.

18. Explain each exception to the certification statement identified in the Certification of Paperwork Reduction Act.

There are no exceptions to the certification statement.