

MEMORANDUM

TO: Lindsay Abate
Office of Management and Budget Desk Officer

FROM: Beatriz Ceja *Beatriz Ceja*
Senior Director for Institutional Service
Office of Postsecondary Education

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

Pursuant to the Office of Management and Budget (OMB) procedures established at 5 CFR 1320, the U.S. Department of Education (Department) requests that the following collection of information, Eligibility of Students at Institutions of Higher Education for Funds under the CARES Act, previously approved as 1840-0844, be processed as a new information collection request (ICR) in accordance with section 1320.13 Emergency Processing.

On March 27, 2020, Congress enacted the CARES Act, Public Law 116–136, to help the nation cope with the economic and health crises created by the novel coronavirus disease (COVID–19) outbreak. Section 18004 of the CARES Act establishes the Higher Education Emergency Relief Fund (HEERF) and instructs the Secretary to allocate funding to eligible IHEs in connection with the COVID–19 outbreak.

On June 17, 2020, the Department published an interim final rule (IFR) in the *Federal Register* (85 FR 36494), in which, for purposes of the phrases “grants to students” and “emergency grants to students” in section 18004(a)(2), (a)(3), and (c) of the CARES Act, “student” was defined as an individual who is, or could be, eligible under section 484 of the Higher Education Act of 1965, as amended (HEA), to participate in programs under title IV of the HEA.

An emergency collection, 1840-0844, was approved by OMB on June 17, 2020 for the burden assessed to both institutions and students as noted in the IFR and ICR supporting statement. The emergency collection had an expiration date of December 31, 2020. The comment period for the ICR closed August 18, 2020. Of the four comments received for the ICR two were substantive comments that echoed comments filed for the IFR. Due in part to multiple competing priorities and the change in administration, the emergency clearance inadvertently lapsed without filing either a 30-day public comment period request for the ICR or a request to discontinue the ICR.

Upon further consideration and in response to public comments, the Department is removing the requirement that a student must be eligible for title IV aid to receive financial

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assistance under the HEERF programs and clarifying in the definition of “student” that any individual who is or was enrolled at an eligible institution on or after the date the national emergency was declared for the novel coronavirus disease may qualify for assistance under the HEERF programs. Given the passage of Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA) (Pub. L. 116-260) and American Rescue Plan Act of 2021 (ARP) (Pub. L. 117-2), which also allocate funds for the HEERF programs, the Department believes that this revised definition of “student” should encompass student eligibility for these programs as well. Thus, the new definition of “student” refers to student eligibility for the CARES Act, CRRSAA, and ARP under the umbrella of the HEERF programs.

Thus, the Department is requesting a new emergency clearance of 1840-XXXX and OMB approval to allow institutions to utilize the revised student definition for purposes of disbursing funds to students as soon as possible.

It is important to proceed with this final rule as expeditiously as possible, due to the fact that institutions are already distributing CARES Act and CRRSAA funds and will soon be distributing ARP funds. Promulgation of the final regulation will help ensure institutions will be able to maintain focus on the pressing needs of students and provide the Congressionally allocated funds to assist their students. Any additional delay will have a negative impact on institutions and students as institutions may delay distribution of emergency financial aid grants without promulgation of the Department’s final rule.

To reduce the burden on students and institutions, the Department has removed the requirement of a student needing to evidence title IV eligibility to qualify for the HEERF program funds.

Therefore, to allow for the quick publication of this final regulation, implementation of the revised definition broadening the relief eligibility to a greater number of students, and to provide clarity to institutions about this change, the Department is unable to consult with the public prior to issuing this final rule revising the definition of student for the purposes of the CARES Act funding. However, the Department is dedicated to receiving full public comment on these changes and the effect on the burden assessment. **The Department requests approval of this submission by May 6, 2021.** Given the inability to seek public comment during such a short timeframe for this emergency collection, the Department will also provide 60-day language as part of the notice in the *Federal Register* seeking public comment for the regular information collection.