

**SUPPORTING STATEMENT  
FOR PAPERWORK REDUCTION ACT SUBMISSION  
Prison Education Program Accreditation Requirements**

- 1. Explain the circumstances that make the collection of information necessary. What is the purpose for this information collection? Identify any legal or administrative requirements that necessitate the collection. Include a citation that authorizes the collection of information. 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, list the sections with a brief description of the information collection requirement, and/or changes to sections, if applicable.**

The Secretary proposes to establish regulations for Federal Pell Grants (Pell Grants or Pell) for Prison Education Programs (PEPs), to implement the new statutory requirements in the Consolidated Appropriations Act, 2021, that amend the Higher Education Act of 1965, as amended (HEA), to establish Pell Grant eligibility for a confined or incarcerated individual enrolled in a PEP. These proposed regulations are a result of negotiated rulemaking and would add new title IV regulations to especially in Subpart P of 34 CFR Section 668.

The Consolidated Appropriations Act, 2021 added section 484(t) to the HEA to formally establish Pell Grant eligibility for confined or incarcerated individuals, as long as they are enrolled in a PEP as defined under the HEA. We propose regulations to implement the statutory requirements allowing access to Federal Pell Grants for individuals who are confined or incarcerated when enrolled in programs that meet necessary standards.

On October 4, 2021, the Department convened a negotiated rulemaking committee, the Affordability and Student Loans Committee, to consider proposed regulations for the Federal Student Aid programs authorized under title IV of the HEA (title IV, HEA programs). This committee included a subcommittee for Pell Grants for Prison Education Programs which met separately. Consensus was reached on the topic of Pell Grants for Prison Education Programs by the Affordability and Student Loans Committee.

This proposed collection would establish new regulations at 34 CFR 668.237 - Accreditation requirements. These proposed regulations would prescribe program evaluation at the first two additional Prison Education Program (PEP) locations of a participating institution of higher education to ensure institutional ability to offer and implement the PEP in accordance with the accrediting agency's standards. The proposed regulations would require the accrediting agency to conduct a site visit no later than one year after the institution has initiated a PEP at its first two additional locations at correctional facilities.

Additionally, the proposed regulations would require accrediting agencies to review the methodology used by an institution in determining the PEP meets the same standards for substantially similar non-PEP programs offered at the institution.

- 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.**

The information gathered by the accrediting agency would be used by them to ensure that the programs offered by the institution and its PEP locations meet the eligible program standards established by the agency.

- 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. Please identify systems or websites used to electronically collect this information. Also describe any consideration given to using technology to reduce burden. If there is an increase or decrease in burden related to using technology (e.g. using an electronic form, system or website from paper), please explain in number 12.**

There is nothing in the regulations which would prohibit the electronic exchange of information between the accrediting agency and institutions requesting evaluation for participation in a PEP.

- 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.**

There is no similar information currently available in any Department system that could be used for these purposes.

- 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.**

No small businesses will be impacted based on these regulations.

- 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 requirements of the proposed regulations are not met, accrediting agencies would not be able to ensure an institution had the ability to offer and implement the PEP in accordance with agency standards increasing the risk to the PEP students' Pell Grant eligibility and taxpayers funds.

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.**

**Include a citation for the 60 day comment period (e.g. Vol. 84 FR ##### and the date of publication). Summarize public comments received in response to the 60 day notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. If only non-substantive comments are provided, please provide a statement to that effect and that it did not relate or warrant any changes to this information collection request. In your comments, please also indicate the number of public comments received.**

**For the 30 day notice, indicate that a notice will be published.**

**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 regulations after conducting negotiated rulemaking with the affected entities and other parties. The comment period for this information collection package runs concurrently with 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.**

There are no payments or gifts 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>1</sup> 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. If no PII will be collected, state that no assurance of confidentiality is provided to respondents. If the Paperwork Burden Statement is not included physically on a form, you may include it here. Please ensure that your response per respondent matches the estimate provided in number 12.**

There is no assurance of confidentiality provided to institutions for the submission of 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**

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<sup>1</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 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)

**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 for this current information collection request. The statement should:**

- **Provide an explanation of how the burden was estimated, including identification of burden type: recordkeeping, reporting or third party disclosure. Address changes in burden due to the use of technology (if applicable). Generally, estimates should not include burden hours for customary and usual business practices.**
- **Please do not include increases in burden and respondents numerically in this table. Explain these changes in number 15.**
- **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. 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 this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burden in the table below.**
- **Provide estimates of annualized cost to respondents of the hour burdens for collections of information, identifying and using appropriate wage rate categories. [Use this site](#) to research the appropriate wage rate. 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. If there is no cost to respondents, indicate by entering 0 in the chart below and/or provide a statement.**

This is a new information collection from the proposed new regulations for which consensus was reached during the Negotiated Rulemaking that took place between October 2021 and December 2021.

Section 668.237 – Accreditation requirements.

Proposed regulations at § 668.237, would prescribe accrediting agencies perform program evaluation at the first two additional locations to ensure institutional ability to offer and implement the Prison Education Program (PEP) in accordance with the accrediting agency's standards. The proposed regulations would require the

accrediting agency to conduct a site visit no later than one year after the institution has initiated a PEP at its first two additional locations at correctional facilities.

Of the 54 currently recognized accrediting agencies, it is estimated that 18 accrediting agencies may be called upon to perform such required reviews for institutions under their oversight. It is estimated that each of these accrediting agencies would require 8 hours per institution to evaluate the written applications for the first two programs offered by PEP or any change in methodology review. With an estimated 400 institutions participating in the PEP program, accrediting agencies would require 3,200 hours to complete this initial review (400 institutions x 8 hours = 3,200 burden hours).

It is estimated that to perform the site visits as required under the proposed regulations would require an estimated 50 hours to prepare for, perform the site visit and report the findings. With an estimated 400 institutions participating in the PEP program, accrediting agencies would require 20,000 hours to complete this initial review (400 institutions x 50 hours = 20,000 burden hours).

Additionally, the proposed regulations at § 668.237 would require accrediting agencies to review the methodology used by an institution in determining the PEP meets the same standards for substantially similar non-PEP programs.

It is estimated that to perform the methodology review as required under the proposed regulations would require an estimated 8 hours. With an estimated 400 institutions participating in the PEP program, accrediting agencies would require 3,200 hours to complete this initial review (400 institutions x 8 hours = 3,200 burden hours).

The total estimated burden for accrediting agencies to perform these proposed tasks for the PEP evaluations is 26,400 hours under the OMB Control Number 1840-NEW.

The monetized net cost of the increased burden for institutions was calculated using wage data developed using Bureau of Labor Statistics (BLS) data. For institutions we have used the median hourly wage for Education Administrators, Postsecondary, \$46.59 per hour according to BLS as of May 2021.  
<https://www.bls.gov/oes/current/oes119033.htm>.

### Estimated Annual Burden and Respondent Costs Table

Information Activity or IC (with type of respondent)	Number of Respondents	Number of Responses	Average Burden Hours per Response	Total Annual Burden Hours	Estimated Respondent Average Hourly Wage \$46.59 per Institution	Total Annual Costs (hourly wage x total burden hours)
Private Institutions	18	12,000	See above	26,400	\$46.59	\$1,229,976
Annualized Totals	<b>18</b>	<b>12,000</b>		<b>26,400</b>		<b>\$1,229,976</b>

*Please ensure the annual total burden, respondents and response match those entered in IC Data Parts 1 and 2, and the response per respondent matches the Paperwork Burden Statement that must be included on all forms.*

**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 are no start-up costs related to this proposed regulation.

- 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 are no additional costs to the Federal government from these proposed regulations.

- 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).**

**Provide a descriptive narrative for the reasons of any change in addition to completing the table with the burden hour change(s) here.**

	<b>Program Change Due to New Statute</b>	<b>Program Change Due to Agency Discretion</b>	<b>Change Due to Adjustment in Agency Estimate</b>
<b>Total Burden</b>	+26,400		
<b>Total Responses</b>	+12,000		
<b>Total Costs (if applicable)</b>			

This is a request for a new information collection. This new burden is due to the proposed regulations based on new statutory requirements in the Consolidated Appropriations Act, 2021, that amends the Higher Education Act of 1965, as amended (HEA), to establish Pell Grant eligibility for a confined or incarcerated individual enrolled in a PEP. These proposed regulations are a result of negotiated rulemaking and would add new regulations in Subpart P of 34 CFR Section 668. We estimate that there are 18



accrediting agencies that may be tasked with performing the required reviews for a total of 26,400 burden hours for 12,000 responses.

- 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 information in the proposed rule would not be published by the Department.

- 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.