

On January 18, 2022, the Department convened a negotiated rulemaking committee, the Institutional and Programmatic Eligibility Committee, to consider proposed regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended, (HEA). Through the Notice of Proposed Rulemaking (NPRM), docket number ED-2022-OPE-0062, the Secretary proposes new regulations to promote transparency, competence, stability, and effective outcomes for students in the provision of postsecondary education. The NPRM, published May 19, 2023 (Vol. 88, No. 97, pages 32300-32511), included proposed regulations on five topics--Financial Value Transparency and Gainful Employment (GE), Financial Responsibility, Administrative Capability, Certification Procedures, and Ability to Benefit. Some of those topics were covered under the information collection 1845-0022 as published in the NPRM. The NPRM has been divided into two separate Final Rules. The burden that covered the GE portion of the information collection originally submitted in the NPRM was cleared through a separate filing under the 1845-0022 information collection under the GE Final Rule published October 10, 2023.

The Financial Responsibility, Administrative Capability, Certification Procedures, and Ability to Benefit Final Rule makes changes to the information collection 1845-0022 – Student Assistance General Provisions. This information collection request only covers the Final Rule provisions for the Financial Responsibility, Administrative Capability, and Certification Procedures which includes some burden for the information collection 1845-0022 that was published in the NPRM.

This burden estimate change only covers the non-GE portion of the burden originally submitted in the NPRM. The burden that covered the GE portion of that originally submitted in the NPRM was cleared through a separate, filing under the 1845-0022 information collection under the GE Final Rule published October 10, 2023.

Section 668.14-Program participation agreement.

The Final Rule amends the new paragraph (e) which outlines a non-exhaustive list of conditions that the Department may opt to apply to provisionally certified institutions. The Final Rule requires that institutions at risk of closure submit an acceptable teach-out plan or agreement to the Department, the State, and the institution's recognized accrediting agency. The Final Rule requires that institutions at risk of closure submit an acceptable records retention plan that addresses title IV, HEA records, including but not limited to student transcripts, and evidence that the plan has been implemented, to the Department. The Final Rule requires that an institution at risk of closure that is teaching out, closing, or that is not financially responsible or administratively capable, will release holds on student transcripts. Other conditions for institutions that are provisionally certified and may be applied by the Secretary are also identified.

The Final Rule regulatory language in § 668.14 will add burden to all institutions, domestic and foreign. The change in § 668.14(e) will require provisionally certified institutions at risk of closure to submit to the Department acceptable teach-out plans, and acceptable record retention plans. For provisionally certified institutions at risk of closure, are teaching out or closing, or are not financially responsible or administratively capable, the proposed change requires the release of holds on student transcripts.

We believe that this type of update will require 10 hours for each institution to provide the appropriate material, or required action based on the proposed regulations. As of January 2023, there were a total of 863 domestic and foreign institutions that were provisionally certified. We estimate that of that figure 5% or 43 provisionally certified institutions may be at risk of closure.

We estimate that it will take private non-profit institutions 250 hours ($25 \times 10 = 250$) to complete the submission of information or required action.

Section 668.15-Factors of financial responsibility.

This section is being removed and reserved.

With the removal of regulatory language in Section 668.15 the Department will remove the associated burden of 816 hours per proprietary institution under OMB Control Number 1845-0022.

Section 668.16-Standards of administrative capability.

The Department amends § 668.16 to clarify the characteristics of institutions that are administratively capable. The Final Rule amends § 668.16(h) to require institutions to provide adequate financial aid counseling and financial aid communications to advise students and families to accept the most beneficial types of financial assistance available to enrolled students. This will include clear information about the cost of attendance, sources and amounts of each type of aid separated by the type of aid, the net price, and instructions and applicable deadlines for accepting, declining, or adjusting award amounts. Institutions will also have to provide students with information about the institution's cost of attendance, the source and type of aid offered, whether it must be earned or repaid, the net price, and deadlines for accepting, declining, or adjusting award amounts.

The Final Rule amends § 668.16(p) which will strengthen the requirement that institutions must develop and follow adequate procedures to evaluate the validity of a student's high school diploma if the institution or the Department has reason to believe that the high school diploma is not valid or was not obtained from an entity that provides secondary school education. The Department updates the references to high school completion in the current regulation to high school diploma which will set specific requirements to the existing procedural requirement for adequate evaluation of the validity of a student's high school diploma.

The Final Rule's regulatory language in § 668.16 will add burden to all institutions, domestic and foreign. The proposed changes in § 668.16(h) would require an update to the financial aid communications provided to students.

We believe that this update will require 8 hours for each institution to review their current communications and make the appropriate updates to the material based on the proposed regulations.

We estimate that it will take private non-profit institutions 15,304 hours ($1,913 \times 8 = 15,304$) to complete the required review and update.

The changes in § 668.16(p) will add requirements for adequate procedures to evaluate the validity of a student's high school diploma if the institution or the Department has reason to believe that the high school diploma is not valid or was not obtained from an entity that provides secondary school education.

We believe that this update will require 3 hours for each institution to review their current policy and procedures for evaluating high school diplomas and make the appropriate updates to the material based on the proposed regulations.

We estimate that it will take private non-profit institutions 5,739 hours ($1,913 \times 3 = 5,739$) to complete the required review and update.

Section 668.23-Compliance audits and audited financial statements.

The Final Rule adds § 668.23(d)(2)(ii) that will require that an institution, domestic or foreign, that is owned by a foreign entity holding at least a 50 percent voting or equity interest to provide documentation of its status under the law of the jurisdiction under which it is organized, as well as basic organizational documents. The submission of such documentation will better equip the Department to obtain appropriate and necessary documentation from an institution which has a foreign owner or owners with 50 percent or greater voting or equity interest which would provide a clearer picture of the institution's legal status to the Department, as well as who exercises direct or indirect ownership over the institution.

The Final Rule's regulatory language in § 668.23(d)(2)(ii) will add burden to foreign institutions and certain domestic institutions to submit documentation, translated into English as needed.

We believe this reporting activity will require an estimated 40 hours of work for affected institutions to complete.

We estimate that it will take private non-profit institutions 13,520 hours ($338 \times 40 = 13,520$) to complete the required documentation gathering and translation as needed.

Section 668.171 General.

The Final Rule amends § 668.171(f) by adding several new events to the existing reporting requirements, and expanding others, that must be reported generally no later than 21 days following the event. Implementation of the reportable events will make the Department more aware of instances that may impact an institution's financial responsibility or stability. The final rule's reportable events are linked to the financial standards in § 668.171(b) and the financial triggers in § 668.171 (c) and (d) where there is no existing mechanism for the Department to know that a failure or a triggering event has occurred. Notification regarding these events will allow the Department to initiate actions to either obtain financial protection, or determine if financial protection is necessary, to protect students from the negative consequences of an institution's financial instability and possible closure.

The Final Rule amends § 668.171(g) by adding language which will require an institutions seeking eligibility as a public institution for the first time, as part of a request to be recognized as a public institution following a change in ownership, or otherwise upon request by the Department to provide to the Department a letter from an official of the government entity or other signed documentation acceptable to the Department. The letter or documentation must state that the institution is backed by the full faith and credit of the government entity. The final rule applies similar amendments to apply to foreign institutions.

The Final Rule regulatory language in § 668.171(f) will add burden to institutions regarding evidence of financial responsibility. The regulations in § 668.171(f) will require institutions to demonstrate to the Department that it met the triggers set forth in the regulations. We estimate that domestic and foreign, have the potential to hit a trigger that will require them to submit documentation to determine eligibility for continued participation in the title IV programs. The overwhelming majority of reporting

will likely stem from the mandatory triggering event on gainful employment programs that are failing with limited reporting under additional events.

We believe that this documentation and reporting activity will require an estimated 2 hours per institution.

We estimate it will take private non-profit institutions 100 hours (50 institutions x 2 hours = 100) to complete the required documentation and reporting activity.

TOTALS

Responses – 3,373
Respondents – 1,913
Burden Hours – 34,097

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1845-0022. Public reporting burden for this collection of information is estimated to average 10.10 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain or retain a benefit (34 CFR 668). If you have comments or concerns regarding the status of your individual submission of this information, please contact Beth Grebeldinger at beth.grebeldinger@ed.gov directly.