

**Attention: Information No Longer Current  
(Alert archived November 2011)**

## Alert #10 – Update 2

**Subject: Higher Education Act - Final Federal Regulations for Student Disclosure Requirements**

**Prepared: February 2000**

### Summary

The Higher Education Amendments of 1998 included several new and revised provisions for the information that institutions are required to disclose to students under Title IV of the HEA. Final regulations implementing the new legislative provisions were published in the *Federal Register*, November 1, 1999, pages 59059-59073. The final regulations are available at <http://ocfo.ed.gov/fedreg/finrule.htm> (second "[Student Assistance General Provisions](#)"), or [http://ifap.ed.gov/csb\\_html/fedreg.htm](http://ifap.ed.gov/csb_html/fedreg.htm) (November 1, 1999, "[Consumerism](#)").

This summary is not intended as a substitute for a thorough review of the regulations.

### Current Status

The final regulations are effective July 1, 2000. However, certain new statutory requirements (described below) are already in effect. Several sections in the *Federal Register* notice have been rewritten, and are published in their entirety, reflecting current requirements as well as new and revised requirements.

The *Federal Register* notice includes the regulatory language (beginning on page 59066), and a preamble that provides explanatory information about certain parts of the regulations. Section 668.41 of the regulations includes provisions for all the required disclosures, and specific provisions for each of the types of disclosures. Further requirements for each type of disclosure are provided in Sections 668.42-668.48.

The preamble to the proposed rules included additional explanatory information that is useful in interpretation of the regulations. The proposed regulations are available at <http://ocfo.ed.gov/fedreg/proprule.htm> (August 10, 1999, "[Student Assistance General Provisions](#)"), or [http://ifap.ed.gov/csb\\_html/fedreg.htm](http://ifap.ed.gov/csb_html/fedreg.htm) (August 10, 1999, "[Consumerism](#)").

Reporting and disclosure of information (Sec. 668.41)

**Attention: Information No Longer Current  
(Alert archived November 2011)**

Current regulations require that institutions produce certain information and make it readily available to current and prospective students. A new provision in the HEA requires institutions to provide current students a list of the information to which they are entitled with instructions on how they may obtain it (Sec. 668.41(c)). The preamble to the proposed regulations provides an example of the brief description that the regulations require for each disclosure in the list (August 10, 1999, notice, page 43583).

The November 1, 1999, notice clarifies that the new statutory requirement to provide the list, and the new provision allowing the use of electronic means for disclosures (Sec. 668.41), are already in effect (page 59060).

The list that must be included in the notice to enrolled students includes financial assistance information (see Sec. 668.42 below for details), information about the institution (see Sec. 668.43 below for details), graduation rates and, if applicable, transfer-out rates (Sec. 668.45), annual security report (Sec. 668.46), and athletic program participation rates and financial support data (Sec. 668.47). The list must also include the annual notification requirement under the Family Educational Rights and Privacy Act regulations (FERPA, Sec. 99.7).

All the information must be made available to current and prospective students upon request. There are additional specific requirements for certain types of information:

- A notice about the availability of the athletic program participation rates and financial support data must be provided to prospective students (Sec. 668.41(g)(1)(ii)). Data on athletic program participation rates and financial support must also be made available to the public upon request (Sec. 668.41(g)(1)(i)). The report must be submitted annually to the U.S. Department of Education (Sec. 668.41(g)(2)).
- By October 1 of each year, all enrolled students and current employees must receive a copy of the annual security report, or a notice of its availability (including the electronic address where the report is posted) if it is distributed by posting it on a Web site (Sec. 668.41(e)). The report must be submitted annually to the U.S. Department of Education (Sec. 668.41(e)(5)).
- A notice about the availability of the annual security report must be provided to prospective students and to prospective employees (Sec. 668.41(e)(4)). The notice must include a statement of the report's availability, a description of the report, and an opportunity to request a copy.

**Attention: Information No Longer Current  
(Alert archived November 2011)**

- If a prospective student requests completion or graduation rate information it must be made available prior to the student's enrolling or entering into any financial obligation with the institution (Sec. 668.41(d)(3)).
- At the time an offer of athletically-related aid is made, prospective student athletes, their parents, high school coaches and counselors must be provided enrollment information, graduation rates, and if applicable, transfer-out rates for students receiving athletically-related aid (Sec. 668.41(f)). The NCAA waiver provision allows the NCAA to provide the information to the high school coaches and counselors on behalf of its member institutions (Sec. 668.41(f)(1)). This information may be delivered by electronic mail, but may not be distributed by posting it on a Web site (August 10, 1999, notice, page 43583). The report must be submitted annually to the U.S. Department of Education (Sec. 668.41(f)(2)).

*Prospective student* is defined in Sec. 668.41(a) as an individual who has contacted an eligible institution requesting information concerning admission to that institution. *Prospective employee* is defined in Sec. 668.41(a) as an individual who has contacted an institution for the purpose of requesting information concerning employment with the institution (page 59064).

Record-keeping requirements are clarified: "the institution must retain any record related to the disclosure for three years following the date of disclosure," (page 59061).

Financial assistance information (Sec. 668.42)

The information that currently must be made available to current and prospective students includes a description of the financial assistance programs available, the application forms and procedures, eligibility requirements, criteria for selection, criteria for determining the amount of the award, satisfactory progress standards, disbursement methods, loan terms, and the conditions and terms for employment provided as part of a student's financial assistance package. The final regulations include conditions for deferral of federal loan repayments for volunteer service.

Institutional information (Sec. 668.43)

This section includes new regulations for disclosures about refund policies, return of Title IV assistance, and requirements for officially withdrawing from the institution. Other information that currently is required to be made available includes: cost of attendance; refund policy; academic program, faculty, and facilities; accreditation and licensure; special facilities and services for students with disabilities; individuals to contact for institutional or financial assistance information; and a statement that a student's enrollment in a study abroad program

**Attention: Information No Longer Current  
(Alert archived November 2011)**

may be considered enrollment at the home institution for purpose of applying for Title IV assistance.

Availability of employees for information dissemination purposes (Sec. 668.44)

This section is unchanged from current regulations, except for renumbering. This section provides the requirements for designating individuals to be available to assist enrolled or prospective students in obtaining the institutional or financial assistance information.

Information on completion or graduation rates, and Report on completion or graduation rates for student athletes (Sections 668.45 and 668.48)

The cohort year has been changed from July 1-June 30 to September 1-August 31. Term-based institutions should continue to include in their Student Right-to-Know (SRK) cohorts first-time, full-time, degree- or certificate-seeking undergraduates who enroll in the fall term, even if the fall term begins prior to September 1 (page 59062). Graduates are counted in each cohort year through August 31, instead of June 30. The November 1, 1999, notice indicates that institutions may use the September 1-August 31 cohort year for their 1996 and 1997 cohorts (page 59062).

The definition of first-time undergraduate students in Sec. 668.41(a) includes students enrolled in the fall term who attended the institution for the first time in the prior summer term. The term "freshman" was removed from the definition of first-time undergraduate student, (page 59061).

Information must be available by July 1 instead of January 1 (Sec. 668.45(a)(5)).

An institution is required to disclose a transfer-out rate only if the institution determines that its mission is to provide substantial preparation for its students to transfer-out, such as community colleges (August 10, 1999, notice, page 43584). "Substantial preparation does not include preparation for a student to enroll in a graduate or professional program after the student completes an undergraduate program," (August 10 notice, page 43584).

The provision that students are to be counted as graduates or completers (rather than as transfers) if they complete a two-year transfer-preparatory program has been extended to "equivalent" programs (which is undefined in the regulations) (Sec. 668.45(b)(2)). (The U.S. Department of Education has indicated in other communications that an example of an equivalent program would be a 3-2 program.) Students who leave an undergraduate program for study in a graduate program (normally counted as completers) are not considered to be transfers-out (page 59063).

**Attention: Information No Longer Current  
(Alert archived November 2011)**

Three of the clarifications provided in the November 1, 1999 notice relate to SRK and Integrated Postsecondary Education Data System (IPEDS) surveys. Generally, "An institution's compliance with the GRS constitutes compliance with the methodological provisions of §§668.45 and 668.48," (page 59063). In addition, the determination of SRK cohorts by term-based institutions has been made consistent with the IPEDS fall enrollment survey definitions (Sec. 668.45(a)(4)). Third, "Consistent with the treatment of transfer-out students by IPEDS Graduation Rate Survey (GRS), an institution only is required to report on students whom the institution knows transferred to another institution," (pages 59062-59063).

An institution must maintain documentation for three years from the date of the disclosure supporting its calculations of its completion or graduation rates (Sec. 668.24(c)(1)(vii)--not included in the November 1, 1999, notice).

Term-based institutions may include in their student-athlete SRK cohorts students who receive athletically-related aid any time during the entire academic year in which the cohort is established (page 59065).

Institutional security policies and crime statistics (Sec. 668.46)

The institutional security policies and crime statistics regulations change the annual disclosure date from September 1 to October 1 (Sec. 668.41(e)), and include new requirements for disclosures of policies and procedures, new crime categories, and a geographic breakdown of locations of crimes--on campus, dormitories, noncampus buildings or property, and public property. The notice indicates that the U.S. Department of Education will provide additional guidance on the definitions of campus, noncampus building or property, public property, and campus security authority at <http://ifap.ed.gov> (page 59063). Specific provisions are included regarding the role of pastoral and professional counselors (Sec. 668.46(c)(6)).

The new statutory requirements for campus crime statistics (Sec. 668.46(c)(1)-(4)) are currently in effect (page 59060).

The final regulations require institutions to record crime statistics for the calendar year in which the crime was reported to a campus security authority (Sec. 668.46(c)(2)).

The statistics must be submitted annually to the U. S. Department of Education (Sec. 668.41(e)(5)). The Department will make a form available and will notify institutions when and how to submit the statistics (August 10, 1999, notice, page 43588).

**Attention: Information No Longer Current  
(Alert archived November 2011)**

The new crime categories must be used for reports for crimes that occurred during the 1999 calendar year, and may be used for prior years if an institution chooses to do so (August 10, 1999, notice, page 43587). Institutions are to use the definitions of crimes provided by the Uniform Crime Reporting System and Hate Crime Collection Guidelines published by the FBI (Sec. 668.46(c)(7)). Crime statistics may not identify the victim or the person accused of committing the crime (Sec. 668.46(c)(5)).

Institutions are encouraged to use maps to depict and disclose the campus, noncampus buildings or property, and public property areas for which they will report crime statistics (August 10, 1999, notice, page 43587, Sec. 668.46(c)(8)). Institutions must make a reasonable, good faith effort to obtain the required statistics from police agencies, and may rely on the information supplied by a local or state police agency (Sec. 668.46(c)(9)). Institutions are encouraged to document their efforts to obtain data from local and state police agencies (August 10, 1999, notice, page 43587).

The 1998 amendments require institutions that have a campus police or campus security department to maintain a daily, written log of crimes that are reported (Sec. 668.46(f)). This requirement is currently in effect (page 59060). The log must be available for public inspection, and must include the nature, date, time, and general location of the crimes and the disposition of complaints if known. Crimes must be entered within two business days. Certain exceptions apply, such as information that would jeopardize the confidentiality of the victim (August 10, 1999, notice, page 43588.).

Report on athletic program participation rates and financial support data (Sec. 668.47)

The proposed regulations require additional revenue and expense data, and provide clarifications for the Equity in Athletics Disclosure Act (EADA) disclosures. Institutions will be required to provide an unduplicated head count of individuals, by gender, who participated on at least one varsity team (Sec. 668.47(c)(3)). The reports must be available by October 15 each year (Sec. 668.41(g)).

The 1998 HEA amendments added the requirement that the reports must be submitted to the Department within 15 days from the time the report is made available to students, prospective students, and the public (Sec. 668.41(g)(2)). The U.S. Department of Education will post information on the IFAP Web site (<http://ifap.ed.gov>) about the process and timing for institutions to send reports ([page 59065](#)).

## **Implications for Institutions**

**Attention: Information No Longer Current  
(Alert archived November 2011)**

All institutions will be affected by the changes to the disclosure requirements, but the impact will not be the same across different types of institutions.

All institutions will have to ensure that they can provide the information students are entitled to see. Because the disclosure information comes from a number of different offices, coordination is necessary. These offices must agree on who supplies each item, when and how the information is sent or updated, and how notices and requested information will be made available. They must provide descriptions of the disclosures and instructions on how students can obtain the information.

Schools, such as community colleges, that determine that their missions include "substantial preparation" for transfer must be able to provide transfer-out rates.

All institutions must maintain records related to disclosures for three years, including documentation of how they calculate their completion/graduation rates.

The changes to campus security regulations have a wide and varying impact. All institutions will have to change their reports to reflect the new reporting categories, beginning with the 1999 statistics. Urban institutions may be more heavily impacted because campus security is now responsible for reporting crime in locations beyond the main campus.

Coeducational institutions with intercollegiate athletics programs must be able to meet different revenue and expense reporting requirements for their EADA reports.

Everyone should review the regulations carefully for disclosure requirements to ensure they are meeting the requirements already in effect and those that will soon be required.

## **Timeline**

October 7, 1998 - Higher Education Amendments of 1998 signed into law.

January - May 1999 - Negotiated rule making to develop proposed regulations

August 10, 1999 - Notice of Proposed Rulemaking for Institutional and Financial Assistance Information for Students published in *Federal Register*.

November 1, 1999 - Final regulations published, effective July 1, 2000.

## **Additional Resources**

**Attention: Information No Longer Current  
(Alert archived November 2011)**

For information about current regulations, see U.S. Department of Education Web Page for Financial Aid Administrators: [http://ifap.ed.gov/csb\\_html/regcomps.htm](http://ifap.ed.gov/csb_html/regcomps.htm). Select Part 668 under "By Regulation Compilation Part," and select "[Subpart D Student Consumer Information Services](#)" under Part 668.

For information about the 1998 Amendments to the Higher Education Act see [Alert 10](#)

**Author:** The AIR Higher Education Data Policy Committee

Coordinated by the Higher Education Data Policy and Publication Committees. All opinions expressed herein do not necessarily reflect the official position of the Association for Institutional Research.

Information Not Current