

**Attention: Information No Longer Current  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

## Alert #36 – Update 1

### New Disclosure Requirements in the Higher Education Opportunity Act of 2008

Prepared: May 2009

Type: Institutional Disclosure Requirements

#### Summary

This Alert provides information on *selected* provisions in the Higher Education Opportunity Act of 2008 (HEOA), which includes a set of amendments to the Higher Education Act of 1965 (HEA). The HEOA includes both **new** disclosure requirements and **revisions** to the institutional disclosures that were previously required. **Most of these requirements, new and revised, became effective August 2008, when the HEOA was signed into law.** These institutional *disclosure requirements* are in addition to the *reporting requirements* arising from the HEOA mandate for the National Center for Education Statistics (NCES) to publish new information on the government's College Navigator website.

Institutional HEA *disclosure requirements* refer to information that institutions must make available to one or more groups: the general public, current students, prospective students, current employees, prospective employees, and prospective student athletes and their parents, guidance counselors, and coaches. Institutional HEA *reporting requirements* typically refer to information that the institution must send to the Department of Education, such as data collected in the Integrated Postsecondary Education Data System (IPEDS) surveys.

This Alert is a reminder to institutions about new requirements for *disclosures* that institutions must implement on their own. This information should be shared with Registrars, financial aid offices, admissions offices, athletic offices, schools of education, and others who may be responsible for collecting or posting such information. Recent AIR Alerts have described changes in IPEDS *reporting requirements* arising from the HEOA. (For changes implemented in the 2008-09 IPEDS and additional changes proposed for the 2009-10 IPEDS, see [AIR Alert #36](#) and [AIR Alert #37](#).)

#### Implications for Institutions

With all the focus on new IPEDS reporting requirements, the new and revised disclosure requirements for institutions may not have received sufficient attention. Institutions will want to do the following:

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- ensure that the list of disclosures that the institution is required to distribute to all enrolled students (including any web site with this information) is complete, up-to-date and contains clear and accurate guidance on how to access the information, including current URLs (see 34 CFR Sec. 668.41(c))
- ensure that the employee(s) who have been designated to assist enrolled or prospective students in obtaining information (see 34 CFR Sec. 668.44) know where the information is located and that all offices that provide the information know who such employee(s) are
- ensure that all of the required disclosures are provided, including those that are distributed to students or others and those that are made available on web pages
- remind offices that maintain disclosure web pages that those web pages must be kept up to date and not removed, and that they should notify the employee(s) who are designated to assist enrolled or prospective students in obtaining the information about any changes, especially to URLs
- watch for announcements that provide guidance on implementing new disclosure requirements. A forthcoming report developed by the National Postsecondary Education Cooperative will provide a list of disclosure and reporting requirements from the HEOA along with examples of ways to make the information accessible.

## Background

Prior to enactment of the HEOA, Section 485 of the HEA included requirements for institutions to disclose information about financial aid, price of attendance, refund policies, academic program, facilities and services for handicapped students, campus security, graduation rates, intercollegiate athletic programs, the names of accrediting, approval, or licensing agencies, satisfactory academic progress standards, student loan cancellation and repayment deferrals, and study abroad enrollment. These requirements are still in effect, although there are revisions to disclosures about financial aid programs, campus security, graduation rates, and the academic program.

Two requirements pertain to disclosures required under Sec. 485 of the HEA:

1. List - Institutions must annually provide to all enrolled students a list of the disclosures required under Sec. 485 of the HEA plus the information required under the Family Educational Rights and Privacy Act of 1974 (FERPA), including instructions for obtaining the information.
2. Assistance - The list must include contact information for the institution's employee/s who are designated to assist current or prospective students in obtaining information that must be disclosed under Sec. 485 of the HEA.

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## Current Status

The disclosure provisions became effective upon enactment of the HEOA on August 14, 2008 (exceptions are noted below). The Department of Education will issue new regulations for some of the provisions following the negotiated rulemaking process. Where there is ambiguity about how to produce certain data (e.g., outcomes measures) institutions will need to make “good faith” efforts to comply until guidance is issued. See the Department of Education letter at <http://ifap.ed.gov/dpceletters/GEN0812FP0810.html> for more information.

The current regulations are available at <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=3e8e38e3231cb9f6c86e4e4ded9e9172&rgn=div6&view=text&node=34:3.1.3.1.34.4&idno=34>.

### **I. The HEOA disclosure provisions of particular relevance to institutional researchers include the following:**

- A. New disclosure requirement relating to net price of attendance:
  - A net price calculator must be posted on each institution’s website by August 2011 (HEOA, Title I, Sec. 111). See AIR FYI 2009-01 for more information about this calculator and the template that NCES is required to post by August 2009 at <http://www.airweb.org/page.asp?page=1900>.
- B. New disclosure requirements relating to outcomes measures (HEOA, Title IV, Sec. 488(a)):
  - Employment – information on the placement in employment of, and types of employment obtained by, graduates of the institution's degree or certificate programs
  - Graduate education – information on the types of graduate and professional education in which graduates of the institution's four-year degree programs enrolled
- C. Additional disclosure requirements relating to graduation and retention rates and a modification to the graduation rate calculation methodology (HEOA Sec. 488(a)):
  - Retention rate of certificate- or degree-seeking, first-time, full-time undergraduates entering the institution. (Institutions currently report these data in IPEDS, but the institutional disclosure requirement is new).
  - Graduation rates disaggregated by gender, race/ethnicity, and financial aid status (in addition to the overall graduation rate required prior to the enactment of the HEOA).

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*(Note: this requirement applies to the graduation rate data disclosed both for the entire cohort of first-time, full-time certificate- or degree-seeking students, and for student athletes.)*

Financial aid status categories:

- Federal Pell Grant recipients
- Recipients of subsidized federal loans who did not receive Pell Grants
- Students who did not receive either a Pell Grant or a federal subsidized loan

These data are to be disclosed only if the number of students in each subgroup is large enough to yield statistically reliable information and if disclosure will not reveal personally identifiable information about an individual student. ***Two-year institutions are not required to report these data until 2011-2012.***

The HEOA also **modified** the graduation rate provisions (HEOA, Title IV, Sec. 488(a) and Sec. 488(d)). All institutions will **continue to be allowed to exclude** from graduation rate calculations those students who leave school to serve in the Armed Forces, on official church missions, or with a recognized Federal foreign aid service. An additional option will be available for institutions for which such students represent twenty percent or more of the certificate- or degree-seeking, full-time undergraduates at the institution. Those institutions may include the students who leave for such service, but in their graduation rate calculations exclude the time the students were not enrolled due to their service. *(Note: this requirement applies to the graduation rate data disclosed both for the entire cohort of first-time, full-time certificate- or degree-seeking students and for student athletes)*

D. New disclosure requirements relating to enrollment data (HEOA, Title IV, Sec. 488(a)):

- Percentage of full-time students who are
  - male
  - female
  - a self-identified member of a major racial or ethnic group
  - the recipient of a Federal Pell Grant

E. The NCES must post several items of information on the College Navigator website by August 14, 2009 (HEOA, Title I, Sec. 111). (Those items not previously collected in the IPEDS surveys were added to the 2008-09 IPEDS collection. See [http://nces.ed.gov/IPEDS/news\\_room/ana\\_Changes\\_to\\_8\\_22\\_2008\\_188.asp](http://nces.ed.gov/IPEDS/news_room/ana_Changes_to_8_22_2008_188.asp).) The new

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items to be posted include a link to the institution's website “that provides, in an easily accessible manner”:

- student activities offered by the institution
- services offered by the institution for individuals with disabilities
- career and placement services offered by the institution to students during and after enrollment
- policies of the institution related to transfer of credit from other institutions.

**II. Other new or revised requirements for institutional disclosures include:**

- A. Any plans by the institution for improving the academic program of the institution (HEOA, Title IV, Sec. 488(a))
- B. Transfer of credit policies (HEOA, Title IV, Sec. 488(g))
- C. Notices regarding suspension of student eligibility for federal financial assistance due to drug-related offenses (HEOA, Title IV, Sec. 488(g))
- D. Required and recommended textbooks and supplemental materials (HEOA, Title I, Sec. 112), effective July 1, 2010.
- E. Institutional policies and sanctions related to copyright infringement (HEOA, Title IV, Sec. 488(a))
- F. Vaccination policies (HEOA, Title IV, Sec. 488(a))
- G. Expansion of campus crime reporting (HEOA, Title IV, Sec. 488(e))
- H. Institutional policy regarding emergency response and evacuation procedures (HEOA, Title IV, Sec. 488(e))
- I. Fire safety report (HEOA, Title IV, Sec. 488(a)). (*Applies to institutions that provide on-campus housing.*)
- J. Missing person procedures (HEOA, Title IV, Sec. 488(g)). (*Applies to institutions that provide on-campus housing.*)
- K. Institutional Report Cards on the Quality of Teacher Preparation. Institutions that offer teacher preparation programs are required to provide information to the State and to the “general public” about their goals for increasing the number of prospective teachers trained in teacher shortage areas; pass rates and scaled scores for their students on assessments used by the State for teacher certification or licensure; and information about the institution’s teacher preparation program (HEOA, Title II, Sec. 201). The State, in turn, is required to send a report to the Department of Education that includes the information submitted by the institutions in the State, plus additional information, e.g., certification and licensure requirements. The Department of Education publishes a report based on the State reports (The American Association of Colleges for Teacher Education has provided a detailed review of the teacher preparation program requirements,

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*Summary of the Higher Education Opportunity Act (HEOA), P.L. 110-315): Provisions Affecting Teacher Preparation Programs, at [http://www.aacte.org/pdf/Legislation\\_Center/AACTE Summary of the Higher Education Opportunity Act.pdf](http://www.aacte.org/pdf/Legislation_Center/AACTE_Summary_of_the_Higher_Education_Opportunity_Act.pdf).)*

## **Timeline**

August 14, 2008 – H.R. 4137, The Higher Education Opportunity Act, signed into law (P.L. 110-315)

August 14, 2008 – Effective date for most new disclosure requirements

August 2009 – Deadline for NCES to publish template for institutional net price calculator

November 2009 – Deadline for Department of Education to publish new final regulations that will be effective July 1, 2010. See “tentative list” of topics for negotiated rulemaking for Team V (General and Non-Loan Programmatic Issues) in the Department of Education Notice at <http://www.ifap.ed.gov/fregisters/FR12312008.html>.

August 2011 – Deadline for each institution to post net price calculator on its website

## **Resources**

### **Regulations**

For information on the Department of Education's plans for implementation of the Higher Education Opportunity Act see <http://www.ed.gov/policy/highered/leg/hea08/index.html>.

The current regulations, including deadlines for disclosures, are available at

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=3e8e38e3231cb9f6c86e4e4ded9e9172&rgn=div6&view=text&node=34:3.1.3.1.34.4&idno=34>. Section 668.41 provides definitions and rules for how information may be disclosed (e.g., the use of electronic means for dissemination). Sections 668.42 through 668.48 provide rules for specific disclosures.

### **Legislation**

A summary of the HEOA (including statement about effective date of August 14, 2008) is available at <http://ifap.ed.gov/dpclatters/GEN0812FP0810.html>.

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For statutory language for the topics covered in this AIR Alert see pp. 22-34, 50-78, and 217-226 of the HEOA at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110\\_cong\\_public\\_laws&docid=f:publ315.110.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ315.110.pdf)

The National Association of Independent Colleges and Universities has provided information about the new disclosure and reporting requirements in the HEOA at [http://www.naicu.edu/special\\_initiatives/hea101/news\\_room/](http://www.naicu.edu/special_initiatives/hea101/news_room/)

The American Council on Education has provided an analysis of the Higher Education Opportunity Act of 2008 at [http://www.acenet.edu/e-newsletters/p2p/ACE\\_HEA\\_analysis\\_818.pdf](http://www.acenet.edu/e-newsletters/p2p/ACE_HEA_analysis_818.pdf)

The Higher Education Act As Amended Through October 2002 is available at <http://republicans.edlabor.house.gov/archive/publications/compindex.htm>.

***Implementation of Title II, HEA Requirements (Teacher Preparation Programs).***

See <https://title2.ed.gov/contactsState.asp> for contact information for Title II data collection and reporting in each of the states.

***Previous Related AIR Alerts/FYIs***

AIR Alert # 37. Proposed Changes for 2009-10 IPEDS, March 2009 (<http://www.airweb.org/page.asp?page=1905>).

AIR FYI 2009-01. Proposed Net Price Calculator Template and Multiyear Tuition Calculator, March 2009 (<http://www.airweb.org/page.asp?page=1900>)

AIR Alert # 36. New Disclosure and IPEDS Reporting Requirements in the Higher Education Opportunity Act, August 2008 (<http://www.airweb.org/page.asp?page=1601>). (*This Alert describes changes to the 2008-09 IPEDS collection required by the HEOA.*)

AIR Alert 10-Update 2. Higher Education Act - Final Federal Regulations for Student Disclosure Requirements, February 2002 (<http://www.airweb.org/page.asp?page=130>).

(*This Alert provides a summary of the information that institutions are required to disclose to students and others under Title IV of the HEA as amended by the Higher Education Amendments of 1998. Note: The campus security regulations and the student athlete graduation rates regulations have been amended since this Alert was written.*)

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