

KEY HEOA COMPLIANCE OBLIGATIONS

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Key HEOA Compliance Obligations

I. General Discussion: Where do all these reporting requirements come from?

Any institution of higher education (IHE) participating in federal financial aid programs for students must sign the Program Participation Agreement set forth in 20 USC § 1094. The eligibility of an IHE to continue to participate in federal student financial aid program hinges upon both signing and following the terms of this agreement. 20 USC § 1094 requires a number of certifications specific to use of Title IV funds, but also requires the IHE to certify that it has a campus security policy, a drug abuse prevention program, will complete the IPEDS surveys, adopt a voter registration program along with other requirements and further will certify that it has complied with the disclosure requirements of 20 USC § 1092.¹ That last requirement, that the institution will comply with the disclosure requirements of § 1092, has taken on a life of its own. In 1998 when the Higher Education Act was amended and added new reporting and accountability requirements, the Department of Education agreed to issue guidance to IHEs on what must be reported, when it must be reported, how it must be reported, and to whom it must be reported. The closest DOE came to meeting this requirement was in the Federal Student Aid Handbook, which does contain a chart.²

II. Why does Congress impose all these requirements on colleges?

Individuals who run for election to the House or Senate are generally motivated by an interest in public policy and a desire to help shape it in a way they feel best serves the people who elect them. Once elected, they want to make a difference. There are many ways in which elected officials influence policy, but developing or amending a law is a clear way to demonstrate interests and effectiveness.

Members of Congress are constantly considering whether there is something they can do to address problems called to their attention. Behind each new requirement added to the Higher Education Act is an elected representative who has heard a news report, attended a briefing/hearing/meeting, or spoken with a constituent and who wants to take action.

The genesis of the new requirements added by the Higher Education Opportunity Act of 2008 (HEOA) and discussed in this presentation generally fall into one of these categories:

Response to constituent concerns

The extensive **college cost** provisions—including so-called “watch lists,” net price and multi-year price calculators, and a new higher education pricing page—reflect the concern held by many members that college is too expensive. Much of that concern is based on what they are hearing from constituents who are worried that they or their children will not be able to afford a college education. Likewise, the new provisions related to **textbooks** were inspired by complaints of students and their parents that book prices are getting out of hand.

¹ See 20 USC § 1094(a)(7): “The institution will comply with the requirements of [section 1092](#) of this title.”

² See Chapter 6 Providing Consumer Information. The chart is at the end.
<http://www.ifap.ed.gov/fsahandbook/attachments/0910FSAHbkVol2Ch6Information.pdf>

Congress started out considering far more prescriptive and intrusive proposals aimed at controlling college costs. After these proposals proved to be too controversial to enact, Congress turned to disclosure and reporting requirements to bring “transparency” to the issue. In addition to the provisions mentioned above, concern about the cost of college was also the underlying motivation for the lengthy list of information to be included on **College Navigator**. Likewise, the underlying thought behind new disclosures related to **post-graduate activities**, is that students should be able to get a better idea of what they’re paying for. This is not an uncommon situation with ambitious legislative proposals, and it is one reason that so many reporting and disclosure requirements find their way into public law.

Another constituent-drive proposal dealt with **transfer-of-credit**. Although the issue was raised and heavily promoted by representatives of the for-profit higher education sector, it got great traction from anecdotes from constituents (and even from staff and members themselves) regarding situations in which they experienced problems in transferring credit. Like college costs, the initial proposals in this area were highly intrusive and burdensome. Those proposals were ultimately abandoned, and new disclosure requirements were instead included in HEAO.

Response to publicized events

The congressional environment is one in which news reports and current events are a constant. Members and their staffs follow national stories, of course, but also stay on top of events occurring in their states or districts. Their reaction to these events often leads to legislative solutions involving additional compliance obligations.

A prominent example in HEOA is the inclusion of **emergency procedures** requirements in response to the tragedy at Virginia Tech. The new **fire safety** requirements were initially introduced following the Seton Hall fire. The new **missing persons** requirements were written in response to a case where a young college student went missing and was later found murdered. The additional **drug and alcohol** reports were an effort to highlight concern about alcohol-related fatalities on campus after a young man in one member’s state died from alcohol poisoning.

Response to “big” issues

The major issues facing the country – the economy, war in Iraq and Afghanistan – are obviously on the minds of members. They consider and debate the major proposals designed to address these issues. At the same time, members want to express interest and concern and to offer help at some level—so they often look to small ways in which they can make a difference.

Over the past several years, for example, there has been an explosion of measures designed to assist veterans as they transition back to civilian life. Perhaps most well known is the massive expansion of GI Bill benefits for post-9/11 veterans. HEOA also included several provisions specifically aimed at helping veterans—including new requirements related to their **readmission** to college.

Likewise, the focus on banks—spurred both by highly publicized investigations by New York Attorney General Andrew Cuomo and by current economic conditions—spurred substantial changes in federal student loan policy. Among them are several new

“sunshine” provisions requiring additional compliance activities by colleges not only with respect to federal student loans but also to private student lending.

Response to persistent advocacy

There are advocates for just about any issue considered by Congress. In many cases, issues that initially have little traction are addressed in some way in law due to concerted and sustained effort. The HEOA **peer-to-peer file sharing** provisions offer a good example—following years of both legal and legislative activity by the recording and movie industries aimed at college campuses. As noted above, sustained lobbying by the for-profit higher education sector set of the process that led to the inclusion of **transfer-of-credit** provisions in the law.

Reflection of broad policy directions

Finally, many of the new compliance obligations imposed on colleges reflect efforts to build up and promote comprehensive policy objectives. The expansion of **teacher preparation** “report card” requirements, for example, are part of a broader effort to improve K-12 education—as many involved in reform efforts are convinced of the need for additional data and transparency in order to achieve their goals. Provisions related to the **disaggregation of graduation data** were inspired by the belief that it might influence the emerging discussion of persistence and graduation. New provisions related to **lobbying activities** reflect current concerns that outside interests have too much influence in government.

III. Can anything be done to reduce the burden?

Once a provision is added to a law, it generally stays there—as there is little appetite for conducting a thorough review of what is already on the books. The task is further complicated by the fact that there are often slightly different approaches and other nuances. Integrating them into a single approach is often regarded as too difficult or too time consuming to pursue.

This is becoming a significant problem with respect to the Higher Education Act. A Congressional Research Service report on the numerous additional reporting requirements in the HEOA stated: “This has resulted in a sizeable expansion of the reporting and disclosure requirements with which IHEs must comply as a condition of their participation in HEA, Title IV federal student aid programs.”³

Section 1098 of the HEOA did task the Advisory Committee on Student Financial Assistance with a review of the current regulations that that are in effect at the time of the review and that apply to the operations or activities of institutions of higher education from all sectors. For future regulations the Advisory Committee is to monitor all Notices of Proposed Rulemaking for their impact on higher education and provide a succinct description of each regulation or proposed regulation that is generally relevant to institutions of higher education from all sectors. In addition, the Advisory Committee is tasked with developing and maintaining an easy to use, searchable, and regularly updated website that provides information on newly proposed

³ Reporting and Disclosure Requirements for Institutions of Higher Education to Participate in Federal Student Aid Programs Under Title IV of the Higher Education Act, Congressional Research Service August 31, 2009 by David Smole. See summary. <http://openncr.com/document/R40789/>

regulations; provides an area for the experts and members of the public to provide recommendations for ways in which the regulations may be streamlined; and publishes the study conducted by the National Research Council of the National Academy of Sciences under section 1106 of the Higher Education Opportunity Act. As of the writing of this outline in October 2009 minimal progress has been made. A press release was issued May 20, 2009⁴ giving the url of the website at <http://www.ed.gov/about/bdscomm/list/acsfa/edlite-publicinput.html>. The website notes that the initial focus will be limited to Title IV regulations.

IV. How can an Institution of Higher Education do its best to comply?

Given the sheer mass of federal regulations that exist (approximately 200 laws affect IHEs, depending upon how you count them⁵) because Congress has not prioritized or provided specific guidance, it is probably no longer possible for any institution to be in full compliance with all of the laws of the time. It will inevitably be left up to each individual institution to weigh the benefits and risks of compliance or non-compliance in any given area.

The approach The Catholic University of America has taken is to collect links to all of the Required Title IV and Title IX disclosures, along with names and emails of those responsible for particular areas, and post it on a web page.⁶ The link to this page is then distributed to students and prospective students through admissions applications, and to employees through The Annual Security Report and also through the staff weekly newsletter called This Week at CUA. For those employees who may not use email on a regular basis, additional outreach is necessary. See the Institutional Checklist on the AIR Alert # 36, Update 1 for a more detailed checklist.⁷ That checklist recommends ensuring that designated staff know they play a role in the dissemination of information, and that web pages are kept current and up to date.

The National Association of Independent Colleges and Universities (NAICU) has attempted to assist its members in becoming familiar with the new requirements of the HEOA through our HEA101 project⁸. The components of HEA101 are:

(1) A one-page “President’s Checklist” highlighting the major requirements of the Act that entail action by the institution. The checklist is designed to help the president identify required tasks so that responsibility for accomplishing them can be assigned.

(2) A booklet entitled “HEA101 – “President’s Quick Guide to the New Law.” This small booklet includes one-page summaries of the 24 topics identified on the checklist—along with the effective date of each provision and a suggested list of campus officials who may need to be involved with compliance activities.

(3) A website containing the information included in the booklet—along with links to statutory and regulatory language, summaries, news articles, and other materials designed to help an institution meet the requirements of the law.

⁴ <http://www.ed.gov/about/bdscomm/list/acsfa/acsfahersprmay.pdf>

⁵ <http://counsel.cua.edu/fedlaw/A-Z.cfm>

⁶ <http://counsel.cua.edu/StudLife/publications/consumerinfo.cfm>

⁷ <http://www.airweb.org/page.asp?page=1948>

⁸ http://www.naicu.edu/special_initiatives/HEA101/

Campus Crime Reporting

I. DISCUSSION

Congress does not seem capable of letting a session go by without expanding this law in some manner. Changes in 2008 include expanding the list of hate crimes that must be reported has been modified to include the following crimes: larceny-theft, simple assault; intimidation, and property destruction, theft or vandalism. For clarification on what is a hate crime, please see The Department of Education Handbook for Campus Crime Reporting starting at page 40. If coordination is not already in place with local law enforcement officers, this must be put in place. A written statement of policy is required. Proposed regulations clarify a *timely warning* will not be required when an emergency notification procedure is used for a situation that would have otherwise called for a timely warning.

II. COMPLIANCE AREA

Campus Crime Reporting

III. COMPLIANCE OBJECTIVES

The Campus Security Act has recently been amended to add additional compliance obligations. This update focuses on the crime reporting section of the law. The Campus Security Act requires colleges to report campus crime statistics and security measures to all students and employees by October 1 of each year. Applicants must receive either a report or a notice of its availability and a brief summary of the report. Timely warnings must go out whenever a threat to students and employees is present for the covered crimes which are reported to local police or campus security authorities. Procedures must be in place on how to issue these notices. Crime statistics must also be submitted to the U.S. Secretary of Education by October 15th of each year. Enforcement procedures and policies, as well as crime prevention and education programs must be described in the annual report. A campus crime log must be maintained.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

**Statute: Campus Security Act of 1990 as amended by HEOA of 2008
20 USC § 1092(f) as updated August 19, 2008**

Proposed Regulations

[34 CFR § 668.46](#) Institutional Security Policies and Crime Statistics and [34 CFR § 668.41](#) which contains the Reporting and Disclosure of Information provisions
Proposed Amendment to 34 CFR 668.46 contained in [74 Federal Register 42830](#), August 21, 2009
(c) * * *

(3) *Reported crimes if a hate crime.*

An institution must report, by category of prejudice, the following crimes reported to local police agencies or to a campus security authority that manifest evidence that the victim was

intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability:

- (i) Any crime it reports pursuant to paragraph (c)(1)(i) through (vii) of this section.
- (ii) The crimes of larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property.
- (iii) Any other crime involving bodily injury.

Caselaw

Havlik v. Johnson & Wales, No. 07-1879 (1st Cir. 2007). Online at <http://www.findlaw.com/>
The Campus Security Act requires that universities notify students and faculty when certain crimes take place on campus. A student who was alleged to have brandished a knife in connection with an assault was identified by name in the campus crime report, and he sued for defamation. The First Circuit upheld the District Court's finding that under the Campus Security Act school officials who issue crime alerts must have only a "reasonable belief" that there is a duty to report (even if later shown to be incorrect) in order for the qualified privilege against defamation to attach.

V. RESPONSIBLE FEDERAL AGENCIES

U.S. Department of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

Failure to comply can result in fines of up to \$27,500 for each violation, (see 34 CFR § 668.84) or loss of Title IV eligibility. See the list of Dept. of Education Enforcement actions on the NACUA Clery Act Resource page listed below. Most notorious was the Eastern Michigan University \$357,500 penalty for covering up a murder and sexual assault of an EMU student and failing to issue a timely warning.

VII. COMPLIANCE CHECKLIST

- ✓ **Distribute Annual Report:** Distribution of an annual security report to all enrolled students and current employees by October 1 of each year. This can be done by direct mailing; by giving a copy directly to the students and employees; or by giving a notice with a link to the web site of the report, a brief description of the report's contents and a statement that a paper copy will be provided upon request. CUA has chosen to mail the annual security report to all enrolled students at their home address and to all employees at their campus address. The report must also be made available to any applicant for enrollment or employment upon request. The report should now also include a statement of current policies concerning law enforcement authority of campus security personnel, and relationship with local law enforcement, in addition to the other items reflected in 20 USC 1092(f) and listed in the text above.
- ✓ **Set up plans for coordination** with local law enforcement agencies for the investigation of alleged criminal offenses, if this is not already in place. An operational memorandum of understanding should be in place for investigation of crimes.

- ✓ **Record Keeping Requirements:** Institutions must retain the records on crime statistics for three years following the last year the information was included in the annual report. For example, October 1, 1997 campus security records would be kept until October 1, 2003. Effective August 14, 2008 the list of hate crimes that must be reported has been modified to include the following crimes: larceny-theft, simple assault; intimidation, and property destruction, theft or vandalism.

- ✓ **Issue Campus Crime Alerts:** A timely warning to the campus community must go out regarding any of the below listed crimes which are deemed to represent a threat to the students and employees, and which are reported to campus security authorities or to local police agencies. The campus crime alert must be issued in a manner that is timely and will aid in the prevention of similar crimes. Campus security may decide to issue an alert about a crime occurring off-campus but in a location frequented by students, even though such a crime would not be included in the annual report. See sample crime alert protocol below.

- ✓ **Maintain Campus Crime Log:** Institutional law enforcement units must keep a daily log that records crimes by their nature, date, time, general location, and disposition of the complaint. The log must be made available to the public within two business days of a request unless disclosure of such information would:
 - be prohibited by law;
 - jeopardize the confidentiality of the victim;
 - jeopardize an ongoing criminal investigation;
 - jeopardize the safety of an individual;
 - cause a suspect to flee or evade detection; or
 - result in the destruction of evidence.

- ✓ **Report Annual Security Statistics:** The annual security statistics must be submitted to the Secretary of Education by Oct. 15th. This is done over a secure web site transmission. Effective August 14, 2008 the list of hate crimes that must be reported has been modified to include the following crimes: larceny-theft, simple assault; intimidation, and property destruction, theft or vandalism.

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

Department of Public Safety, Student Life, Institutional Research.

IX. COMPLIANCE CALENDAR

October 1st: Distribute Annual Security Report to all students and Employees by October 1 of each year.

October 15th: The Annual Report on crime statistics must be filed by October 15th each year. Statistics are for the three previous years. Note there may be difficulties if you wait until the last day. The data collection period opens in August.

X. SAMPLE POLICIES AND PROCEDURES

Campus Crime Alert Protocol:

<http://counsel.cua.edu/Compliance/VPforstudent/publicsafety/CPO/crimealert.cfm>

XI. ADDITIONAL RESOURCES

NAICU HEA 101 Quick Guide to Campus Crime Reporting

http://www.naicu.edu/special_initiatives/hea101/news_room/campus-guide-campus-crime-reporting

Uniform Crime Reporting Handbook: FBI updated 2004

<http://www.fbi.gov/ucr/handbook/ucrhandbook04.pdf>

NACUA Clery Act Resources and Links (very comprehensive; password protected)

http://www.nacua.org/lrs/NACUA_Resources_Page/CleryActResources.asp

Campus Crime Reporting: A Guide to Clery Act Compliance

(ACE/NACUBO 2002) http://www.nacua.org/documents/ACE_NACUBO_CleryAct.pdf

Summary of New Campus Safety Disclosure Responsibilities

Online at <http://counsel.cua.edu/Security/HEOA%20Summary.pdf>

How to Report Crimes on Campus: Sample Handout

<http://counsel.cua.edu/Security/resources/reportcrimes.cfm>

Campus Safety and Security Project Survey

<http://www.nacubo.org/Documents/Initiatives/CSSPSurveyResults.pdf>

This is a report on results from a multi-organization survey led by NACUBO which was designed to assist schools in finding ways to deal with campus safety and security. The survey addresses emergency preparedness, ability to respond to threats, preventative measures, physical infrastructure, communications and systems infrastructure, strategies for behavioral/mental health issues, business continuity issues, budget and funding issues and emergency management.

Handbook for Campus Crime Reporting: US Dept. of Education (2005)

<http://www.ed.gov/admins/lead/safety/handbook.pdf>

DOE Campus Security Web Page <http://www.ed.gov/admins/lead/safety/campus.html>

nb: As of this writing the statutory text on the above page was not current.

Reporting and Disclosure Requirements for IHEs to Participate in Federal Student Aid Programs under Title IV of the Higher Education Act by Congressional Research Service

August 31, 2009 <http://openocrs.com/document/R40789/>

College Costs

I. DISCUSSION

The debate over college costs was a heated one. Members of Congress frequently hear complaints that college is too expensive, and college cost concerns have driven many congressional policy proposals in recent years.

Over the course of the six-year debate that led to the enactment of the HEOA, several highly prescriptive proposals that went well beyond reporting and disclosures were put forward, including those that would have—

- Cut off all Title IV funding other than loans and Pell Grants to institutions that increased tuition by more than twice the rate of inflation.
- Forced institutions that exceeded the federally prescribed “college affordability index” to submit management action plans to the Department of Education, to be reported to their accreditors, and to be subject to audit by the Inspector General.
- Required the establishment of “quality-efficiency task forces” of outside “experts” to review the operations of the 5 percent of institutions with the highest cost increases.

Ultimately, none of these proposals was enacted. However, the HEOA contains a substantial number of new provisions dealing with college costs—most of which are aimed at greater transparency. Institutions will be required to provide additional information to the Department of Education and to make a net price calculator available on their websites.

In addition, the Department of Education will be compiling and distributing information to prepare the so-called college cost “watch lists.” The preparation of these lists will not impose additional reporting requirements on institutions; however, those institutions identified as being among the top 5% in price or in net price in their sectors will be subject to additional requirements.

II. COMPLIANCE AREA

College Costs

III. COMPLIANCE OBJECTIVES

The law includes several provisions related to college prices – most notably a series of “College Affordability and Transparency Lists,” beginning in July 2011, aimed at highlighting those institutions with the highest prices and highest rates of price increases. Institutions with the highest rates of price increases over the three-year period preceding that date will be required to submit reports to the Secretary of Education.

The Department will also develop a “Higher Education Pricing Summary Page” for each institution, which will break out net price information by income categories. Institutions will be required to provide the additional information necessary for this information to be calculated.

Colleges also must post a net price calculator on their Web sites within two years years of a model calculator being made available by the Department of Education. (The model calculator was to have been released by August 14, 2009, but that deadline was not met.)

In addition, the Secretary will develop an annual State higher education spending chart and will conduct a state-by-state student aid recipient survey. These activities will not require additional reporting or disclosures by institutions.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

STATUTE

20 USC § 1015a Transparency in college tuition for consumers

REGULATIONS

The Secretary has not issued regulations and has not announced any plans to do so.

V. RESPONSIBLE FEDERAL AGENCIES

US Department of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

Fines of up to \$27,500 (adjusted penalty) for failure by IHE to provide information on the cost of higher education to the Commissioner of Education Statistics.

20 USC 1015 (c)(5) and **34 CFR 36.2** Penalty Adjustment.

VII. COMPLIANCE CHECKLIST

All institutions:

- ✓ **Provide to the National Center for Education Statistics (NCES) the information needed for the new net price calculations.**
- ✓ **Post a net price calculator on the institution's website** within 2 years after a model calculator is developed by the Department. The institution may use either the model calculator or a comparable one developed by the institution (meaning that, at a minimum, the institution's calculator must include the same data elements included in the model developed by the Department).

"Top 5%" Institutions:

[These institutions include those in the top 5% of their education sector in terms of having the largest increases in tuition & fees and those in the top 5% with the largest increases in net price.]

- ✓ **Prepare a report for the Secretary that:**
 - (1) Describes the areas in the institution's budget with the greatest cost increases;

- (2) Explains the cost increases identified in (1); and
- (3) Describes the steps the institution will take toward the goal of reducing costs in these areas.

If the institution is on either of these list 2 or more consecutive years—

- ✓ **Prepare a report for the Secretary** that describes its progress on the cost reduction steps described in the earlier report.

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

President; business office; student financial aid; admissions; institutional research; campus Web master; public information office.

IX. COMPLIANCE CALENDAR

- The “College Affordability and Transparency Lists” will be published on July 1, 2011. The 5% of institutions in each education sector with the largest increases in tuition & fees and the 5% of such institutions with the largest increases in net price over the three most recent academic will then be required to provide reports to the Secretary.
- Institutions must post on their Web sites a net price calculator no later than two years after the Secretary of Education develops a model net price calculator. The model calculator was to have been developed by August 14, 2009, but the Department was not able to meet this deadline.
- Institutions must provide information so that the breakout of net price information by income categories is available by July 1, 2010, for inclusion on a new “Institution Pricing Summary Page.”

X. SAMPLE POLICIES AND PROCEDURES

Williams College Net Price Calculator

<http://www.williams.edu/admin/financial/calculator/williamsStart.html>

MIT Financial Aid Calculator

http://web.mit.edu/sfs/afford/financial_aid_calculator.html

XI. ADDITIONAL RESOURCES

NAICU HEA 101 Quick Guide:

http://www.naicu.edu/special_initiatives/hea101/news_room/college-costs

Williams College Net Price Calculator

<http://www.williams.edu/admin/financial/calculator/williamsStart.html>

The Integrated Postsecondary Education Data System (IPEDS) – Department of Education. The link below goes to the following HEOA technical review panel (TRP) reports dealing with college cost issues:

TRP #27 Requirements of Higher Education Opportunity Act: State Higher Education Spending Chart (July 21, 2009)
Requirements of Higher Education Opportunity Act: Multi-Year Tuition Calculator and Net Price Calculator Template (January 27, 2009)
TRP #25 - Requirements of Higher Education Opportunity Act: Net Price (October 28, 2008)
https://edsurveys.rti.org/IPEDS_TRP/TRP.aspx

Association for Institutional Research (AIR)

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

Consumer Information

I. DISCUSSION

For those seeking a quantifier on increase in the regulatory burden, it is worth noting that the Consumer Information reporting requirements under this law (20 USC § 1015(i) have the distinction of now extending all the way from A-Z. Except for a dozen or so requirements (see those in bold below) most of this data has already been collected in IPEDS or another source.

A thorough discussion of the additional data reporting requirements is contained in the Congressional Research Service report listed below under Resources. See page 17 and Table 4. One issue that might float up to the Legal Office is the question on reporting disability data. Section I requires reporting the percentage of undergraduate students enrolled at the institution who are formally registered with the office of disability services of the institution (or the equivalent office) as students with disabilities.⁹ Unlike other data that Institutional Research Staff are charged with reporting, this is viewed as *soft data* in that it has not been vetted a number of times (and by different offices) as is the case with other data reported. From the Disability Office point of view, this is also *soft data* in that it is unlikely to accurately reflect the total number of students with disabilities at the institution, as a number of students in that category may choose not to register for services.

II. COMPLIANCE AREA

Consumer Information on College Navigator

III. COMPLIANCE OBJECTIVES

The Department of Education has to make information available to prospective students and parents on College Navigator. The HEA was amended to add to the list of disclosures thus increasing the reporting requirements for institutions. Most of this new information will be collected through IPEDS.

⁹ If such percentage is three percent or less, the institution shall report "three percent or less".

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

Statute

20 USC § 1015a Transparency in college tuition for consumers

Regulations None proposed to date. Unclear when and if there will be any issued.

V. RESPONSIBLE FEDERAL AGENCIES

Department of Education, including National Center for Education Statistics

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

The law includes fines of up to \$27,500 (adjusted penalty) for failure by the IHE to provide info on cost of higher education to the Commissioner of Education Statistics. 20 USC § 1015 (c)(5) and 34 CFR § 36.2 Penalty Adjustment

VII. COMPLIANCE CHECKLIST

- the institution's mission statement;
- link to the institution's website that provides, in an easily accessible manner, information on student activities, services for individuals with disabilities, career and placement services, and policies on transfer of credit;
- admissions rates and test scores;
- enrollment by race and ethnicity, gender,
- enrollment status, and residency;
- number of transfer students;
- students registered with the disability office;
- retention rates;
- graduation rates within normal time of program completion and 150% and 200% of normal time; number of certificates and degrees awarded, and programs with the highest number of awards; student-to-faculty ratio and number of faculty and graduate assistants;
- cost of attendance and availability of alternative tuition plans;
- average grant aid and loans, and number of students receiving such aid, by type; total grant aid to undergraduates;
- number of students receiving Pell Grants;
- three years of tuition and fees and average net price data;
- three years of average net price disaggregated by income; a multi-year tuition calculator;
- College Affordability Lists and reports;
- Title IV cohort default rate; and campus safety information.

State spending charts and a link to Bureau of Labor Statistics information on starting salaries are also required. A link to the Bureau of Labor Statistics website may be able to be provided directly by the Department of Education.

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

Institutional Research, Financial Aid, Office of Disability Support Services.

IX. COMPLIANCE CALENDAR

Compliance begins in calendar year 2008-2009 through IPEDS for most of the items. Some of these items will be phased in over a 5-year period from passage of the bill. Schools have to start using the Net Price two years after it is posted by NCES. This tool has not been posted yet, so the earliest will be October 2011. The multi-year net price calculator is already available on NCES for all schools. This is handled by NCES, not by the school.

X. SAMPLE POLICIES AND PROCEDURES

XI. ADDITIONAL RESOURCES

Reporting and Disclosure Requirements for IHEs to Participate in Federal Student Aid Programs under Title IV of the Higher Education Act by Congressional Research Service
August 31, 2009

<http://openers.com/document/R40789/>

College Navigator website

<http://nces.ed.gov/COLLEGENAVIGATOR/>

NAICU HEA 101 Quick Guide

http://www.naicu.edu/special_initiatives/hea101/news_room/consumer-information-on-college-navigator

IPEDS New Information on NAICU

http://www.naicu.edu/special_initiatives/hea101/news_room/ipeds-additional-resources

AIR Alert Summary on New Reporting Requirements

<http://www.airweb.org/images/AIRAlert36-1.pdf>

and update at <http://www.airweb.org/page.asp?page=1948>

IPEDS Statutory Requirements for Reporting IDEDS Data

http://nces.ed.gov/IPEDS/submit_data/statutory_requirements.asp

Net Price Calculator Update by Think Ahead LLC.

http://www.collegeaidcalculator.com/TAL_common_files/NPC_whitepaper.pdf

NASFAA Conference Video: Preparing for the Net Price Calculator

<http://www.nasfaa.org/publications/2009/ctnpc2video082609.html>

NAFSAA Conference Handouts (includes one on Net Price Calculator)

<http://www.nasfaa.org/publications/2009/cthandouts070109.html>

Chronicle Article on how Colleges Created Net Price Calculator (July 15, 2009)

<http://chronicle.com/article/2-Colleges-Share-How-They/47376>

Proposed Changes to IPEDS 2009-10 and Beyond

http://nces.ed.gov/ipeds/news_room/ana_3_19_2009.asp

Example of Multi Year Net Price Calculator

<http://nces.ed.gov/collegenavigator/?q=Catholic+University&s=all&id=131283>

Disciplinary Proceedings - FERPA

I. DISCUSSION

This section, in a very small way, amends FERPA. FERPA *permits* the disclosure to the alleged victim of a crime of violence (or non-forcible sex offense) the results of a disciplinary proceeding and the HEOA *requires* the institution to disclose the final results of any disciplinary proceeding against the student who perpetrated the crime to the alleged victim or to the alleged victim's next of kin (if victim is dead due to crime) provided that a written request is made.

II. COMPLIANCE AREA

Disciplinary Proceeding Disclosures

III. COMPLIANCE OBJECTIVES

Schools must, upon written request, disclose to the alleged victim of a crime of violence (or non-forcible sex offense) or the next of kin if the victim dies, the report on the final results of any disciplinary proceeding dealing with the crime or offense. FERPA had made such disclosures optional.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

Statute

20 USC §1094(a) (26)

[Caution: This paragraph applies to any disciplinary proceeding conducted by an institution **on or after Aug. 14, 2009**, as provided by § 493(a)(1)(B) of Act Aug. 14, 2008, [P.L. 110-315](#), which appears as a note to this section.]

The **institution will, upon written request, disclose to the alleged victim** of any crime of violence (as that term is defined in [section 16 of title 18, United States Code](#)), or a nonforcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense with respect to such crime or offense. If the alleged victim of such crime or offense is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

Regulation

This provision is not in published negotiated regulations from August. There may not be any regulations on this.

V. RESPONSIBLE FEDERAL AGENCIES

Department of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

Fines of up to \$27,500 per violation: 34 CFR § 668.84 and potential loss of ability to participate in Title IV programs.

VII. COMPLIANCE CHECKLIST

- ✓ Ensure process in place for responding to written requests
- ✓ Amend student records policy or notices as needed

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

Student Judicial, Office of General Counsel

IX. COMPLIANCE CALENDAR

Effective August 14, 2009.

X. SAMPLE POLICIES AND PROCEDURES

XI. ADDITIONAL RESOURCES

NAICU HEA 101 Quick Guide

http://www.naicu.edu/special_initiatives/hea101/news_room/cohort-default-rate

Reporting and Disclosure Requirements for IHEs to Participate in Federal Student Aid Programs under Title IV of the Higher Education Act by Congressional Research Service

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<http://openocrs.com/document/R40789/>

NACUBO Higher Education Opportunity Act page

http://www.nacubo.org/Initiatives/Higher_Education_Opportunity_Act.html

Disclosures to Students

I. DISCUSSION

The Higher Education Act for many years has required disclosures to students. The list has grown over the years with an exponential increase in 1998 and again in 2008. A key question here is *how* the consumer information must be disclosed. The preamble to the August 21, 2009 Proposed Regulations¹⁰ contains a good discussion on consumer information at page 42393 as it relates to copyright and peer to peer. While the focus is on peer to peer, the discussion gives an idea of the larger framework for disclosure of consumer information.

For consistency, § 668.43(a)(10) would implement the consumer information portion of the statute within the existing framework and using the definitions found in current regulations. The committee discussed whether the statutorily required annual disclosure should be a one-to-one notice provided directly to each student by the institution. However, as the statute requires that most institutional information in this section of the HEA instead be made readily available to prospective and enrolled students, the information regarding institutional policies and sanctions related to the unauthorized distribution of copyrighted material would be handled in the same manner (i.e., included in the list of institutional information that an institution must make available pursuant to § 668.43). The Department believes that the required disclosure of institutional policies and sanctions related to the unauthorized distribution of copyrighted materials can be met without imposing the burden of a one to-one notification on institutions.

¹⁰ 74 Federal Reg. 42380 online at <http://edocket.access.gpo.gov/2009/pdf/E9-18550.pdf>

There are two rules on the distribution of most of the required consumer information. The first is pursuant to 34 CFR § 668.41 (c) which states that *notice* must be given to each enrolled student. The notice is to let enrolled students know about the availability of the information listed in 34 CFR § 668.41 (d) (e) and (g), and pursuant to 34 CFR § 99.7 (FERPA).¹¹ **The notice must list and briefly describe the information and tell the enrolled students how to access the information.** Note that if the information referenced in the notice is posted on a website the notice must inform the student he/she can ask for a paper copy of the information. Also the notice must have an exact url of where the information is posted if posted online, which is nearly universal at this point. Use of the word *notice* is a term of art as it is defined in 34 CFR § 668.41 (a) as follows:

Notice means a notification of the availability of information an institution is required by this subpart to disclose, provided to an individual on a one-to-one basis through an appropriate mailing or publication, including direct mailing through the U.S. Postal Service, campus mail, or electronic mail. Posting on an Internet website or an Intranet website does not constitute a notice.

The second rule is set forth in 34 CFR § 668.41(d) and it addresses disclosure to enrolled or prospective students. This rule states that an institution **must make available** to any **enrolled or prospective student** through appropriate publications, mailings or electronic media, information concerning the disclosure schools need to make, including the additional new disclosures listed below.¹²

There a **specific rule for distribution** of the Annual Security Report to enrolled students and current employees. See 34 CFR § 668.41(e). This distribution will now include the Fire Safety Report and the Missing Persons Policy as well, along with information about Emergency Procedures.

Note then that while the *notice* as described above must go to all enrolled students on a one to one basis, the whole panoply of regulatory provisions do not have to be sent directly one to one to each student. Some flexibility is left to schools on how to accomplish the notice provision.. The notice could be distributed by direct mail, campus mail or email and could be included in another mailing as long as the notice is complete. As an example, the Annual Security Report, which is likely to be one item that is delivered directly could include a paragraph about the availability of Title IV Consumer Information and a link to the web page or web pages that have all of the required information required to be disclosed under 34 CFR § 668.41. If student handbooks are sent directly to students, this could be the vehicle for the delivery of the notice. What would not suffice is a simple notice on campus web page directing students to the information, but an institution may wish to put this notice on a web page as a supplemental measure. The institution may wish to include Title IX required disclosures at the same time.

II. COMPLIANCE AREA

Disclosures to Students and Prospective Students

¹¹ FERPA merely requires at 34 CFR § 99.7 (b) that an educational agency or institution may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights.

¹² The proposed regulations remove the words *on request* from this section, even though they are in the statute. It appears to be a nod to the reality that most students don't request this information.

III. COMPLIANCE OBJECTIVES

New disclosure obligations have been added to the already lengthy list of disclosure obligations. This includes fire safety, plans for academic improvement, terms and conditions of loans, peer-to-peer file sharing policies, student characteristics, post-graduation information, retention rates, vaccine policies, and disaggregation of graduation data.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

Statute 20 USCS § 1092(a) Information Dissemination Activities

Plans for Academic Improvement (20 USC § 1092(a)(1)(G)) Current disclosure requirements regarding academic programs are expanded to include a description of any plans by the institution for improving its academic programs.

Terms and Conditions of Loans (20 USC § 1092 (a)(1)(M)) Each institution must disclose to students the terms and conditions of guaranteed, direct, and Perkins loans. Previously, the disclosures required by this subparagraph related to deferrals and partial cancellations.

Peer-to-Peer File Sharing (20 USC § 1092 (a)(1)(P)) Each institution must disclose to students its institutional policies and sanctions related to copyright infringement.

Student Characteristics (20 USC § 1092 (a)(1)(Q)) Each institution must disclose information about the diversity of its student body, including information about the percentage of full-time students broken down by gender, race/ethnicity, and whether or not they are Pell Grant recipients. Institutions currently collect all this information, but the disclosure requirement is new.

Post-Graduate Information (20 USC § 1092 (a)(1)(R) & (S)) Each institution must disclose information about the employment of and participation in graduate and professional education by its graduates. The information is to be gathered from sources such as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, the Community College Survey of Student Engagement, State data systems, or other relevant sources.

Fire Safety Report (20 USC § 1092 (a)(1)(T)) The disclosure to students and prospective students must include the new fire safety report required under new Section 485(i).

Retention Rates (20 USC § 1092 (a)(1)(U)) Each institution must disclose its retention rates. (Institutions currently collect this information, but the disclosure requirement is new.)

Vaccine policies (20 USC § 1092 (a)(1)(V)) Each institution must disclose its vaccination policies.

Disaggregation of Graduation Data (20 USC § 1092 (a)(7)) Graduation data under the “Student Right to Know” provisions of the law would have to be disaggregated by gender, by major racial and ethnic subgroup, by recipients of Pell Grants, by recipients of a subsidized federal loan who did not receive a Pell Grant, and by recipients of neither a Pell Grant nor a subsidized loan.

Regulations

See 74 Fed. Reg. 42438 for Proposed Regulations, online at <http://edocket.access.gpo.gov/2009/pdf/E9-18550.pdf>

See page 42437 for the disclosure requirement that would amend 34 CFR § 668.41 (d) Final regulations due out Nov. 1, 2009.

V. RESPONSIBLE FEDERAL AGENCIES

U.S. Dept. of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

Fines of up to \$27,500 per violation: 34 CFR § 668.84 and potential loss of ability to participate in Title IV programs.

VII. COMPLIANCE CHECKLIST

Add to disclosure materials the following:

- ✓ Plans for Academic Improvement
- ✓ Terms and Conditions of Loans
- ✓ Peer to Peer File Sharing
- ✓ Student Characteristics
- ✓ Post Graduate Information
- ✓ Fire Safety Report (note this is best included in the Annual Security Report as well)
- ✓ Retention Rates
- ✓ Vaccine Policies
- ✓ Disaggregation of Graduation Data

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

Institutional Research, financial aid, campus security, Public Affairs, Admissions, Risk Management and Environmental Health and Safety; Disability Support Services, Associate Provost for Administration, Registrar and possible Office of General Counsel.

IX. COMPLIANCE CALENDAR

Effective August 14, 2008, but subject to negotiated rulemaking, so good faith effort is necessary. Enforcement not likely before July 2010.

X. SAMPLE POLICIES AND PROCEDURES

Required Title IV and Title IX disclosures:

<http://counsel.cua.edu/StudLife/publications/consumerinfo.cfm>

Admissions web page as an example that would not meet the required disclosure provisions above, but that is helpful in reaching the intended audience:

<http://admissions.cua.edu/contact.html>

XI. ADDITIONAL RESOURCES

US Dept. of Education Letter Dec. 2008 summarizing HEOA

<http://ifap.ed.gov/dpctletters/attachments/GEN0812FP0810AttachHEOADCL.pdf>

See page 95 for consumer disclosure list

Federal Student Financial Aid Handbook 2009-2010 Chapter 6 Providing Consumer Information

<http://www.ifap.ed.gov/fsahandbook/attachments/0910FSAHbkVol2Ch6Information.pdf>

See chart at end for what must be provided, when and how. *Nota bene*: The chart does not include the newer provisions but is in the process of being updated and expanded.

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<http://openncrs.com/document/R40789/>

For a list of compliance partners to consumer disclosures:

<http://counsel.cua.edu/fedlaw/Ppa.cfm>

NAICU Summary of New Disclosure Provisions

http://www.naicu.edu/special_initiatives/hea101/news_room/summary-of-new-disclosure-provisions-in-section-485a1

NAICU HEA 101 Page on Disclosures to Students and Prospective Students

http://www.naicu.edu/special_initiatives/hea101/news_room/disclosures-to-students-and-prospective-students

NACUA Resource Page on HEOA (see specifically the NACUANOTES by Kate Tromble)

http://www.nacua.org/lrs/NACUA_Resources_Page/HEOAResources.asp

Drug and Alcohol Abuse Prevention

I. DISCUSSION

Drug and alcohol abuse on college campuses has long been a concern of members of Congress. As such, there are several provisions of the HEA relating to this topic—including the inclusion of statistics regarding arrests and campus disciplinary actions for liquor law and drug-related violations in the annual campus security report required under Section 485(f).

The related—but slightly different—reporting requirement included in Section 120 by the HEOA is distinctive due to its specific reference to drug- and alcohol-related fatalities. Several well publicized cases of such fatalities led the Congress to include this provision.

II. COMPLIANCE AREA

Drug and Alcohol Abuse Prevention

III. COMPLIANCE OBJECTIVES

Institutions will have additional responsibilities under the existing drug and alcohol requirements, including determining:

- The number of drug and alcohol-related violations and fatalities occurring on campus, or as part of an institution's activities, that are reported to campus officials.
- The number and type of sanctions imposed as a result of such violations and fatalities.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

Statute [New language from HEOA in bold.]

SEC. 120. [20 U.S.C. 1011i] DRUG AND ALCOHOL ABUSE PREVENTION.

(a) RESTRICTION ON ELIGIBILITY.—Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless the institution certifies to the Secretary that the institution has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

* * *

(2) a biennial review by the institution of the institution's program to—

- (A) determine the program's effectiveness and implement changes to the program if the changes are needed; ~~and~~
- (B) determine the number of drug and alcohol-related violations and fatalities that—
 - (i) occur on the institution's campus (as defined in section 485(f)(6)), or as part of any of the institution's activities; and
 - (ii) are reported to campus officials;
- (C) determine the number and type of sanctions described in paragraph (1)(E) that are imposed by the institution as a result of drug and alcohol-related violations and fatalities on the institution's campus or as part of any of the institution's activities; and
- (D) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

Regulations

Regulations have not been issued for this provision.

V. RESPONSIBLE FEDERAL AGENCIES

US Department of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

The inclusion of this information is among the minimum requirements an institution is to meet in conducting the drug and alcohol abuse prevention program described in **Section 120 [20 U.S.C. 1011i]**. An institution that fails to meet the requirements of this section could lose all federal funding, including the ability to participate in federal student loan programs.

VII. COMPLIANCE CHECKLIST

- ✓ **Assure that the individual on campus who is responsible for preparing and submitting the biennial review is aware that this additional information is to be included.**
- ✓ **Assure that the required information is being collected.** This information includes—
 - The number of drug and alcohol-related violations and fatalities that occur on campus or as part of the institution's activities and that are reported to campus officials; and
 - The number and types of sanctions imposed by the institution as a result of those drug and alcohol-related violations and fatalities.

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

Student life; security/campus police; student health services; any other campus officials who report or enforce institutional drug and alcohol policies.

IX. COMPLIANCE CALENDAR

This provision went into effect when the bill was signed into law on August 14, 2008. The new information should be incorporated into the biennial review (already required under existing drug and alcohol requirements) the institution prepares after this date.

An institution is not required to file the biennial review with the Department of Education, but should maintain a copy on file in the event of an audit.

X. SAMPLE POLICIES AND PROCEDURES

This is a new requirement, and examples are not available.

XI. ADDITIONAL RESOURCES

NAICU HEA 101 Quick Guide

http://www.naicu.edu/special_initiatives/heaguide/news_room/drug-and-alcohol-abuse-prevention

The Catholic University of America – The Office of General Counsel Drug and Alcohol Prevention Program

<http://counsel.cua.edu/FEDLAW/Dfsca.cfm>

Department of Education Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention

<http://www.higheredcenter.org/services>

Drug Violation Penalty Notice

I. DISCUSSION

Provisions to make students convicted of drug violations were added to the HEA in 1998 and have been a continuing source of controversy. The provisions have been modified, but efforts to repeal them completely have been unsuccessful. Most recently, the House of Representatives approved legislation that would strike provisions dealing with possession of a controlled substance. Under this provision, included in the Student Aid and Fiscal Responsibility Act of 2009 (H.R. 3221), suspension of aid eligibility would apply only to individuals convicted of the sale of a controlled substance—not to those convicted of possession.

II. COMPLIANCE AREA

Drug Violation Penalty Notice

III. COMPLIANCE OBJECTIVES

Institutions must provide each student, upon enrollment, a separate written notice advising the student of the penalties for drug violations.

For any student who loses federal student aid eligibility due to drug violations, the institution must provide a written notice describing the ways in which the student can regain eligibility.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

**Statute: Notice of Drug Violation Penalties
Section 485 . . .**

(k) NOTICE TO STUDENTS CONCERNING PENALTIES FOR DRUG VIOLATIONS.—

(1) NOTICE UPON ENROLLMENT.—Each institution of higher education shall provide to each student, upon enrollment, a separate, clear, and conspicuous written notice that advises the student of the penalties under section 484(r).

(2) NOTICE AFTER LOSS OF ELIGIBILITY.—An institution of higher education shall provide in a timely manner to each student who has lost eligibility for any grant, loan, or work-study assistance under this title as a result of the penalties listed under **484(r)(1)** a separate, clear, and conspicuous written notice that notifies the student of the loss of eligibility and advises the student of the ways in which the student can regain eligibility under section **484(r)(2)**.

Section 484(r)

(r) SUSPENSION OF ELIGIBILITY FOR DRUG-RELATED OFFENSES.—

(1) IN GENERAL.—A student who has been convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance shall not be eligible to receive any grant, loan, or work assistance under this title during the period beginning on the date of such conviction and ending after the interval specified in the following table:

If convicted of an offense involving:

The possession of a controlled substance: Ineligibility period is:

First offense 1 year
Second offense 2 years
Third offense Indefinite.

The sale of a controlled substance: Ineligibility period is:

First offense 2 years
Second offense Indefinite.

(2) REHABILITATION.—A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the ineligibility period determined under such paragraph if—

- (A) the student satisfactorily completes a drug rehabilitation program that—
 - (i) complies with such criteria as the Secretary shall prescribe in regulations for purposes of this paragraph; and
 - (ii) includes two unannounced drug tests;

(B) the student successfully passes two unannounced drug tests conducted by a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe in regulations for purposes of subparagraph (A)(i); or

- (C) the conviction is reversed, set aside, or otherwise rendered nugatory.

(3) DEFINITIONS.—In this subsection, the term “controlled substance” has the meaning given the term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

Regulations

Regulations have not been issued on this provision.

V. RESPONSIBLE FEDERAL AGENCIES

US Department of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

Failure to comply can result in fines of up to \$27,500 for each violation, (see **34 CFR § 668.84**) or loss of Title IV eligibility.

VII. COMPLIANCE CHECKLIST

For all students:

- ✓ **Develop a written document** that:
 - is separate, clear, and conspicuous;
 - advises students that they will lose eligibility for any loan, grant, or work assistance under Title IV of the HEA if convicted of the possession or sale of a controlled substance; and
 - states the period of ineligibility for each offense.
- ✓ **Distribute this document to each student upon enrollment.**
(Section 485(k)(1))

For students who have lost eligibility for federal aid due to conviction for drug offenses:

- ✓ **Develop a written document** that:
 - Is separate, clear, and conspicuous;
 - Notifies a student that he or she has lost eligibility for any loan, grant, or work assistance under Title IV of the HEA due to his/her conviction for the possession or sale of a controlled substance; and
 - Advises the student that he/she can regain eligibility if: he/she satisfactorily completes an approved drug rehabilitation program that includes two unannounced drug tests or successfully passes two unannounced drug tests conducted by an approved drug rehabilitation program; or the conviction is reversed, set aside, or otherwise rendered nugatory. **(Section 485(k)(2))**
- ✓ **Provide the notice to each student who has lost federal student aid eligibility due to his/her conviction for the possession or sale of a controlled substance.**

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

Registrar; admissions; financial aid; publications office; any other campus officials who enforce institutional drug policies

IX. COMPLIANCE CALENDAR

This provision went into effect when the bill was signed into law on August 14, 2008.

X. SAMPLE POLICIES AND PROCEDURES

Rutgers

<http://polcomp.rutgers.edu/docs/Disclosures%20Statement-August%202009-revised.pdf>

Goucher College – Campus Policies - Alcohol, Tobacco, & other drugs
2009-10 Academic Year [See: IX – Policy Distribution (page 6)]

<http://www.goucher.edu/documents/Legal/alcoholpolicy.pdf>

Washington & Lee University – Notice to all students

Washington and Lee University

To: All Students

Fr: VP for Student Affairs and Dean of Students; Office of Financial Aid

Re: Drug Use and Ineligibility for Federal Financial Aid

Be advised that a student who is convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance while enrolled in an institution of higher education and receiving any federal financial aid (e.g. grant, loan, or work assistance) will lose his/her eligibility for such federal assistance according to the following schedule:

If convicted of an offense involving the **possession** of a controlled substance, the ineligibility period is:

First Offense	1 year
Second Offense	2 years
Third Offense	Indefinite

If convicted of an offense involving the **sale** of a controlled substance, the ineligibility period is:

First Offense	2 years
Second Offense	Indefinite

Washington & Lee University – Notice to convicted students

Washington and Lee University

To: _____

Fr: VP for Student Affairs and Dean of Students; Office of Financial Aid

Re: Drug Conviction and Ineligibility for Federal Financial Aid

Be advised that your conviction under Federal and/or State law involving the possession or sale of a controlled substance while enrolled at Washington and Lee University and receiving federal financial aid (e.g. grant, loan, or work assistance) has resulted in your ineligibility to receive such federal assistance for the following time period:

If convicted of an offense involving the **possession** of a controlled substance, the ineligibility period is:

First Offense	1 year
Second Offense	2 years
Third Offense	Indefinite

If convicted of an offense involving the **sale** of a controlled substance, the ineligibility period is:

First Offense	2 years
Second Offense	Indefinite

You may regain eligibility before the end of the ineligibility period listed above if:

- 1) You satisfactorily complete a drug rehabilitation program that:
 - a) Complies with criteria prescribed by the Secretary of Education in regulations issued pursuant to 20 U.S.C. § 1091(r)(2)(A)(i); and
 - b) Includes two unannounced drug tests; OR
- 2) Your conviction is reversed, set aside, or otherwise rendered nugatory.

XI. ADDITIONAL RESOURCES

NAICU HEA 101 Quick Guide

http://www.naicu.edu/special_initiatives/heaguide/news_room/drug-violation-penalty-notice

Federal Student Aid Handbook – Chapter 6 – Providing Consumer Information Page 2-85

“**Notice of penalties.** The HEOA provides that a school must provide to every student, upon enrollment, a separate, clear and conspicuous written notice with information on the penalties associated with drug-related offenses (as described in Volume 1 of this Handbook). HEOA section 488(g); HEA section 485(k).”

<http://www.ifap.ed.gov/fsahandbook/attachments/0910FSAHbkVol2Ch6Information.pdf>

Federal Student Aid Handbook – Chapter 1 – Student Eligibility

Pages 1-15,16 Describes the penalties associated with drug-related offenses.

<http://ifap.ed.gov/fsahandbook/attachments/0910FSAHbkVol1.pdf>

Emergency Procedures

I. DISCUSSION

The Clery Act was used as the model for the emergency procedures, missing persons and fire safety disclosure requirements. The Emergency Procedures actually amend the Clery Act. While the Fire Safety and Missing Persons requirements don't technically amend the Clery Act, they do follow the construct of requiring inclusion into the Annual Security Report.

II. COMPLIANCE AREA

Emergency Procedures

III. COMPLIANCE OBJECTIVES

Institutions are required to disclose emergency response policies and evacuation procedures. The first annual security report in which a statement of policy would need to be included would be the report due for distribution by October 1, 2010. The policy should include a description of how text messaging or any other electronic system will be used. The school would be required to document each test of the emergency response system, including data on exercise, time date and

announced or unannounced. The emergency response policy must include procedures to implement the following:

- Immediate notice to the campus community upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring on the campus, unless issuing a notification will compromise efforts to contain the emergency;
- Annual publication of emergency response and evacuation procedures to students and staff;
- Annual test of emergency response and evacuation procedures. (20 USC 1092 (f)(1)(J));
- Determine the appropriate campus community segment or segments to notify;
- Determine the content of the notification; and
- Initiate the notification system.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

Statute: 20 USC §1092(f) (J) Disclosures of campus security policy and crime statistics

(J) A statement of current campus policies regarding immediate emergency response and evacuation procedures, including the use of electronic and cellular communication (if appropriate), which policies shall include procedures to--

(i) immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring on the campus, as defined in paragraph (6), unless issuing a notification will compromise efforts to contain the emergency;

(ii) publicize emergency response and evacuation procedures on an annual basis in a manner designed to reach students and staff; and

(iii) test emergency response and evacuation procedures on an annual basis.

(2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

Regulation

Proposed Regulation will be at 34 CFR § 668.46 (a), (b), (e), (g)

34 CFR § 668.46 (a) would define test is defined for purposes of the emergency response and evacuation procedures as ``regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities.

668.46(b) (13) would require institutions to include a statement of policy regarding their emergency response and evacuation procedures in the annual security report. Institutions must satisfy this requirement beginning with the annual security report distributed by October 1, 2010.

668.46(e)(3) would clarify the difference between the existing timely warning requirement and the new requirement for an emergency notification policy. While a timely warning must be issued in response to crimes specified in Sec. 668.46(c)(1) and (3), an emergency notification is required in the case of an immediate threat to the health or safety of students or employees

occurring on campus.

668.46(g) would set out the following elements that an institution must include in its **statement of policy** describing its emergency response and evacuation procedures in its annual security report:

Procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus.

A description of the process that the institution will use to (1) **confirm** that there is a significant emergency or dangerous situation, (2) **determine the appropriate segment** or segments of the campus community to receive a notification, (3) **determine the content** of the notification, and (4) **initiate** the notification system.

A statement that the institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing the notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

A list of the titles of the persons or organizations responsible for carrying out the actions in proposed Sec. 668.46(g)(2).

Procedures for disseminating emergency information to the larger community.

Procedures for testing its emergency response and evacuation procedures on at least an annual basis. Such tests could be announced or unannounced, would be publicized in conjunction with at least one test per calendar year, and would be documented, including a description of the exercise, the date, time, and whether it was announced or unannounced.

The preamble to the proposed rules notes as follows: **The proposed regulations would not require institutions to publish in great detail how they would respond to specific emergencies.** Also, institutions consider the needs of students with disabilities in developing emergency response and evacuation policies and procedures.

V. RESPONSIBLE FEDERAL AGENCIES

US Dept. of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

Litigation costs for a failed plan could be enormous. Fines of up to \$27,500 per violation: 34 CFR § 668.84 and potential loss of ability to participate in Title IV programs.

VII. COMPLIANCE CHECKLIST

- ✓ **Statement of policy** regarding their emergency response and evacuation procedures in the annual security report.
- ✓ **A description of the process** that the institution will use to (1) **confirm** that there is a significant emergency or dangerous situation, (2) **determine the appropriate segment** or segments of the campus community to receive a notification, (3) **determine the content** of the notification, and (4) **initiate** the notification system.

- ✓ **A statement that the institution** will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing the notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.
 - ✓ **Procedures for testing its emergency response and evacuation procedures on at least an annual basis.**
 - ✓ **Procedures for disseminating emergency** information to the larger community.
 - ✓ **A list of the titles of the persons or organizations responsible** for carrying out the actions
- Note not all of the above must be made public.

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

Public Safety; Emergency Planning; President; Office of General Counsel; Risk Management

IX. COMPLIANCE CALENDAR

Good faith effort is as soon as possible, but in time to be included in Oct. 2010 Annual Security Report.

X. SAMPLE POLICIES AND PROCEDURES

University of North Carolina Wilmington Emergency Response and Evacuation Procedures
<http://www.uncw.edu/policies/documents/05504emergencyresponse.August2009.pdf>

Appalachian State University Emergency Information Page
<http://www.emergency.appstate.edu/>

XI. ADDITIONAL RESOURCES

NACUA Clery Act Resource Page (password protected)
http://www.nacua.org/lrs/NACUA_Resources_Page/CleryActResources.asp

NAICU HEA 101 Quick Guide
http://www.naicu.edu/special_initiatives/heal101/news_room/campus-guide-campus-crime-reporting

Reporting and Disclosure Requirements for IHEs to Participate in Federal Student Aid Programs under Title IV of the Higher Education Act by Congressional Research Service August 31, 2009 <http://openocrs.com/document/R40789/>

NACUBO Higher Education Opportunity Act page
http://www.nacubo.org/Initiatives/Higher_Education_Opportunity_Act.html

**At Least it Wasn't a Football Weekend: The Notre Dame Tunnel Fire: EDUCAUSE
Research Bulletin Volume 2009, Issue 20, Oct, 6, 2009**
http://net.educause.edu/ir/library/pdf/ecar_so/erb/ERB0920.pdf

This ECAR research bulletin discusses how the University of Notre Dame created and refined its incident response plan, how the utility tunnel fire of August 28, 2009, played out within that framework, the challenges of the subsequent week-long recovery phase, and how lessons Notre Dame learned can be applied at other colleges and universities.

Fire Safety

I. DISCUSSION

This legislation was originally introduced after the Seton Hall fires, and is modeled after the Clery Campus Crime Reporting Act. Despite the good intentions of Congress, this is a potentially burdensome reporting requirement that may have little measureable effect on increasing fire safety on campus. As one commentator on the law noted, if Congress intended by this legislation to achieve fire safety on campus, they could have set up a revolving loan fund that schools could tap into to buy sprinklers for campus buildings.

II. COMPLIANCE AREA

Fire Safety

III. COMPLIANCE OBJECTIVES

Publish an annual report on fire safety if the school maintains on campus housing facilities. The IHE must also maintain a fire log and report statistics to the U.S. Dept. of Education. Note that under the proposed regulations, as stated in the preamble a student housing facility on property owned by the institution, even if the building is maintained and owned by a student organization or other party would be considered an on campus student housing facility. If neither the property nor the building is owned by the institution, then the student housing facility would not be covered by this definition.¹³ However, proposed 668.41 states that on campus student housing facility is a dormitory or other residential facility for students that is located on an institution's campus, as defined in Section 668.46 (a)¹⁴, which is the Clery Act definition which is owned or controlled rather than simply *owned*.

¹³ (See page 42397 of the August 21, 2009 Proposed Rules.)

¹⁴ *Campus*: (1) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's

The fire safety report can be included with the annual security report. If they are not published together they must be cross referenced. The fire safety report must contain statistics concerning the number of fires in the institutions on campus housing facilities; the cause of each fire; the number of injuries and deaths related to each fire; and the value of property damage caused by each fire. Also required is a description of each student housing facility fire safety system and the number of regular mandatory supervised fire drills. The report must also include policies or rules on certain practices. This would include rules such as no candles in dorms; no smoking; procedures for evacuation; policies on fire safety education and training. A list of the titles of each person or organization to which students and employees should report that a fire has occurred should be included. Any future plans for fire safety should be included.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

Statute: 20 USC § 1092 (i)

Regulation: Proposed 34 CFR § 668.49 and 34 CFR § 668.41(e)

Definitions are added. The proposed regulations delineate the required statistics. Report would have to provide data for three most recent calendar years. The reporting would be phased in beginning with the collection of statistics for calendar year 2009 in the October 1, 2010 Fire Safety Report. The first report to have three years of data would be the report due in October 2012. The proposed regulations require any institution that maintains on campus housing to keep a log of all fires that occur in on campus student housing facilities, including the nature, date and time and general location of each fire. An annual report on these fires must be made to the campus community. The log must be available for public inspection, and changes made within two business days of the receipt of the information. 34 CFR § 668.41(e) sets forth the disclosure requirements for the report; like the annual security report it must be distributed by Oct. 1 to all enrolled students and current employees. If the report is posted, notice must be given to enrolled students and current employees with a statement regarding the reports availability, the url, a brief description of contents, and notice that a paper copy will be provided if requested. Notice must be given to prospective students and employees about the reports availability. Same rules for electronic postings. Fire safety statistics will have to be submitted to the Secretary of Education in a form specified by the Secretary.

V. RESPONSIBLE FEDERAL AGENCIES

U.S. Department of Education

educational purposes, including residence halls; and (2) Any building or property that is within or reasonably contiguous to the area identified in paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor). 34 CFR 668.46

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

Fines of up to \$27,500 per violation: 34 CFR § 668.84

Potential loss of ability to participate in Title IV programs.

VII. COMPLIANCE CHECKLIST

- **Report to Secretary of Education:** The statistics must be reported to the Secretary of Education on an annual basis. At this point in time, the format for reporting the statistics has not yet been established. The first report will likely be due October 1, 2010.
- Make, keep, and **maintain a log**, recording all fires in on-campus student housing facilities, including the nature, date, time, and general location of each fire, such entry to be made within two business days after receipt of the information. The log for the most recent 60 day period must be open to the public for inspection.
- **Distribute annual reports** to the campus community on such fires. Schools would be required to publish the annual fire safety report by October 1 each year, with the first report due Oct. 1, 2010. The report must have:
 - A) Statistics concerning the following in each on-campus student housing facility during the most recent calendar years for which data are available:
 - (i) the number of fires and the cause of each fire;
 - (ii) the number of injuries related to a fire that result in treatment at a medical facility;
 - (iii) the number of deaths related to a fire; and
 - (iv) the value of property damage caused by a fire.
 - B) A description of each on-campus student housing facility fire safety system, including the sprinkler fire system;
 - C) The number of regular, mandatory, supervised fire drills;
 - D) Policies or rules on portable electrical appliances, smoking, open flames (such as candles), procedures for evacuation, policies regarding fire safety education and training programs provided to students, faculty, and staff; and
 - E) plans for future improvements in fire safety, if determined necessary by such institution

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

Environmental Health and Safety, Public Safety, Student Housing

IX. COMPLIANCE CALENDAR

Effective when passed in August 2008, so good faith efforts required. Collect statistics and keep log in 2009 so it can be reported October 2010.

X. SAMPLE POLICIES AND PROCEDURES

Kennesaw State University Annual Fire Safety Report for Campus Housing

<http://www.kennesaw.edu/residencelife/FireSafetyReport.pdf>

Mt. Holyoke Fires and Fire Prevention web page

<http://www.mtholyoke.edu/publicsafety/fires.html>

and Crime and Fire Logs: <http://www.mtholyoke.edu/publicsafety/logs.html>

XI. ADDITIONAL RESOURCES

The Center for Campus Fire Safety

<http://www.campusfiresafety.org/home>

Fire Safety 101 (part of a FEMA web page)

<http://www.usfa.dhs.gov/citizens/college/101.shtm>

CLIC page on Fire Safety

<http://counsel.cua.edu/fedlaw//fire.cfm>

NAICU 101 Quick Guide: Fire Safety

http://www.naicu.edu/special_initiatives/hea101/news_room/fire-safety

NACUA HEOA Resource Page

http://www.nacua.org/Irs/NACUA_Resources_Page/HEOAResources.asp

Graduation Data

I. DISCUSSION

Reporting in a *disaggregated* fashion is required only if the number of students in each category is sufficient to yield statistically reliable information, and doing so would not reveal personally identifiable information about an individual student. The racial and ethnic categories to be used are those in IPEDS. The question of receipt of aid should be based on whether the student received the aid during the time period when the student entered the institution that is associated with the cohort of students the student is part of for purposes of the calculation of completion, retention and transfer out rates. The disaggregation by receipt of aid is categorized by:

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

It is worth noting the racial and ethnic data is only as good as the number of students who choose to answer the optional questions on the applications. At CUA, the unknowns for this category have gone from 15% to 20% in the past five years.

II. COMPLIANCE AREA

Disaggregation of Graduation Data

III. COMPLIANCE OBJECTIVES

This portion of the HEOA requires a change in the way graduation data under the Student Right to Know Law is reporting through the Integrated Postsecondary Education Data System (IPEDS). The new law requires disaggregating by gender, major racial and ethnic subgroup, recipients of Pell Grants, recipients of a subsidized federal loan who did not receive a Pell Grant and by recipients of neither a Pell Grant or subsidized loan. There is a delay until 2011-2012 for two year degree granting institutions. 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.

The institution would report its completion and graduation rate information in a disaggregated manner only if the number of students in each category is sufficient to yield statistically reliable information, and doing so would not reveal personally identifiable information about an individual student. Otherwise, the institution would note that it enrolled too few students in the affected category to disclose the information with confidence and confidentiality.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

Statute

20 USC §1092(a) (7) (A)

Proposed Regulation (August 21, 2009)

34 CFR § 668.45 (6)(i)

(6)(i) Completion or graduation rate information must be disaggregated by gender, by each major racial and ethnic subgroup (as defined in IPEDS), by recipients of a Federal Pell Grant, by recipients of a Federal Family Education Loan or a Federal Direct Loan (other than an Unsubsidized Stafford Loan made under the Federal Family Education Loan Program or a Federal Direct Unsubsidized Stafford Loan) who did not receive a Federal Pell Grant, and by recipients of neither a Federal Pell Grant nor a Federal Family Education Loan or a Federal Direct Loan (other than an Unsubsidized Stafford Loan made under the Federal Family Education Loan Program or a Federal Direct Unsubsidized Loan) if the number of students in such group or with such status is sufficient to yield statistically reliable information and reporting will not reveal personally identifiable information about an individual student. If such number is not sufficient for such purpose, i.e., is too small to be meaningful, then the institution shall note that the institution enrolled too few of such students to so disclose or report with confidence and confidentiality.

(ii) With respect to the requirement in paragraph (a)(6)(i) of this section to disaggregate the completion or graduation rate information by the receipt or nonreceipt of Federal student aid, students shall be considered to have received the aid in question only if they received such aid in the period specified in paragraph (a)(3) of this section. (see discussion in Section I above)

(iii) The requirement in paragraph (a)(6)(i) of this section shall not apply to two-year, degree-granting institutions of higher education until academic year 2011–2012

V. RESPONSIBLE FEDERAL AGENCIES

Department of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

A civil penalty not to exceed \$27,500 (adjusted for inflation) for each violation or misrepresentation: 20 USC § 1094 (c) (3) (B). Potential loss of eligibility for Title IV programs.

VII. COMPLIANCE CHECKLIST

See <https://surveys.nces.ed.gov/IPEDS/>

Then click on Data Submission Info on left, and further click on Changes to IPEDS forms 2008-09 through 2010-11.

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

Registrar, Institutional Research, Financial Aid

IX. COMPLIANCE CALENDAR

Note that the completions survey (which is annual) was not updated in the Fall Collection cycle to reflect changes in the law. So even though the law stated this is effective immediately (2009-2010) for all institutions other than two year degree granting institutions, which have until 2011-2012 to comply, compliance will depend upon NCES updating the appropriate surveys.

The Spring 2010 survey collects graduation data and the collection opens Dec. 2, 2009 and closes April 14, 2010, but if you look at the first link under resources below it appears the changes referenced above will not take effect until a later academic year.

X. SAMPLE POLICIES AND PROCEDURES

See Section VII above.

XI. ADDITIONAL RESOURCES

IPEDS 2009-10 <https://surveys.nces.ed.gov/IPEDS/> (see boxes on the left under data submission info for boxes)

NAICU HEA 101 Quick Guide

http://www.naicu.edu/special_initiatives/hea101/news_room/disaggregation-of-graduate-data

IPEDS Race and Data questions https://surveys.nces.ed.gov/ipeds/visFaq_re.aspx#1

Association for Institutional Research 2009 Race and Ethnicity Tutorial

<http://airweb.org/?page=2036>

Reporting and Disclosure Requirements for IHEs to Participate in Federal Student Aid Programs under Title IV of the Higher Education Act by Congressional Research Service August 31, 2009 <http://openncrs.com/document/R40789/>

IPEDS 2009-2010 Survey Materials

<https://surveys.nces.ed.gov/ipeds/VisInstructions.aspx?survey=2&id=485&show=all>

Lobbying Certification

I. DISCUSSION

The HEOA lobbying certification requirement is very similar to a law (commonly known as the “Byrd Amendment”) that has been on the books since 1989. On the assumption that the new annual certification will parallel the individual certifications now provided, it should not present a major compliance issue for institutions of higher education.

One reason this provision is included in this presentation is that it provides an illustration as to why institutions so frequently have to comply with redundant—albeit slightly different—requirements. The author of the amendment on which the final provision was based, Senator Tom Coburn, was aware of the 1989 law. However, he felt a need to highlight what he saw as excessive lobbying and earmark seeking by institutions of higher education. One popular way to highlight an issue or concern is to offer a floor amendment, and that’s what he did.

As he explained in a press release after the amendment’s 93-0 vote of approval by the Senate, “This transparency measure became necessary as the overall amounts spent by academic institutions for lobbying and by the federal government for schools and student aid have steadily grown along with the costs of education.” This comment clearly reflects the broader concern he and many other legislators have about lobbying and earmarks. It’s also worth noting his mention of college costs—as cost concerns have been the underlying force behind many of the higher education policy proposals put forward in recent years.

The new requirement largely parallels the prior law with respect to its prohibition on the use of federal (in this case, Higher Education Act) funds to lobby for federal grants, contracts, loans or cooperative agreements. Unlike the prior law, it makes specific reference to earmarks in a separate funding prohibition.

Concern about lobbying and earmarks remains as high today as it was over two years ago when the Senate approved the Coburn amendment without a dissenting vote. Additional lobbying and earmark restrictions, disclosures, and the like have been proposed consistently by

both the Congress and the Administration. Given this level of interest, institutions need to take this new disclosure requirement seriously—whether or not they see it as duplicative of other disclosures they’re filing.

II. COMPLIANCE AREA

Lobbying Certification

III. COMPLIANCE OBJECTIVES

Each institution must annually “demonstrate and certify” to the Secretary of Education that it has not used any funds under the Higher Education Act (HEA) to attempt to influence a federal or Congressional official or employee in connection with any federal grant, contract, loan, or cooperative agreement. No student aid funding under HEA may be used to hire a registered lobbyist or to pay for securing an earmark.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

Statute

This is a free-standing provision. It does not amend the Higher Education Act. Public Law 110-315 (Higher Education Opportunity Act) –

SEC. 119. DEMONSTRATION AND CERTIFICATION REGARDING THE USE OF CERTAIN FEDERAL FUNDS.

(a) PROHIBITION.-- No Federal funds received under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) by an institution of higher education or other postsecondary educational institution may be used to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action described in subsection (b).

(b) APPLICABILITY.--The prohibition in subsection (a) applies with respect to the following Federal actions:

- (1) The awarding of any Federal contract.
- (2) The making of any Federal grant.
- (3) The making of any Federal loan.
- (4) The entering into of any Federal cooperative agreement.

(5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(c) LOBBYING AND EARMARKS.-- No Federal student aid funding under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) may be used to hire a registered lobbyist or pay any person or entity for securing an earmark.

(d) CERTIFICATION.-- Each institution of higher education or other postsecondary educational institution receiving Federal funding under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), as a condition for receiving such

funding, shall annually demonstrate and certify to the Secretary of Education that the requirements of subsections (a) through (c) have been met.

(e) **ACTIONS TO IMPLEMENT AND ENFORCE.**--The Secretary of Education shall take such actions as are necessary to ensure that the provisions of this section are implemented and enforced.

Regulation

None. At this point, the Department of Education has not issued any guidance with respect to compliance with the requirement.

V. RESPONSIBLE FEDERAL AGENCIES

US Department of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

The Secretary of Education is to take “such actions as are necessary” to ensure enforcement. Specific penalties are not set out in the law.

VII. COMPLIANCE CHECKLIST

- ✓ **Certify annually** to the Secretary of Education that the institution has not used any funds under the Higher Education Act (HEA) to attempt to influence an agency or member of Congress in connection with any federal grant, contract, loan, or cooperative agreement.
- ✓ **Certify annually** to the Secretary of Education that the institution has not used any federal student aid funding to hire a registered lobbyist or to pay for securing an earmark.

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

President, government relations; business office; academic affairs; sponsored research office; any other offices with a role in securing federal grants, loans, contracts, or other assistance.

IX. COMPLIANCE CALENDAR

The provision went into effect when the bill was signed into law on August 14, 2008.

X. SAMPLE POLICIES AND PROCEDURES

This is a new requirement, and the Department of Education has not yet specified how institutions are to comply.

XI. ADDITIONAL RESOURCES

NAICU HEA 101 Quick Guide

http://www.naicu.edu/special_initiatives/hea101/news_room/lobbying-certification

Senator Tom Coburn (R-OK) press release regarding approval of lobbying disclosure amendment by Senate – July 24, 2007

http://coburn.senate.gov/public/index.cfm?FuseAction=LatestNews.PressReleases&ContentRecord_id=f94ca81a-802a-23ad-4af5-b7971870b742

Note: The press release is useful in terms of describing the thinking behind the amendment. The language in the final version of the HEOA differed from the version approved by the Senate—in that it refers to federal HEA funds, not all federal funds.

31 U.S.C. §1352. (Regulations at 34 CFR 82.)

The requirements included in HEOA are very similar to those of 31 U.S.C. §1352.

The primary differences between the two requirements are:

- (1) Under 31 U.S.C. §1352, the certification that no federal funds have been used to attempt to influence an agency or member of Congress with respect to federal grant, contract, loan, or cooperative agreement must be filed with each award document. Under HEOA Section 119, an institution is to provide a single annual certification that no funds received under the Higher Education Act have been used for this purpose.
- (2) 31 U.S.C. §1352 does not address the use of federal funds to hire a registered lobbyist or to pay to secure an earmark. HEOA Section 119 requires a certification that no HEA federal student aid funds have been used for this purpose. **31 U.S.C. § 1352**

31 U.S.C. § 1352

Missing Persons

I. DISCUSSION

The time frame set up in the law gives the school up to 24 hours to inform the local law enforcement agency that the student is missing. Once the law enforcement agency confirms, the institution has up to 24 hours to notify the parents or other contact person listed by the student. Nothing in the regulation precludes the institution from notifying the student's parents or other contact person as soon as a student has determined to be missing, without waiting for law enforcement confirmation. Potential problems are there is lot of room for judgment calls here. College students don't always notify their friends or parents before taking off on a trip.

II. COMPLIANCE AREA

III. COMPLIANCE OBJECTIVES

Any institution participating in a Title IV federal student financial aid program that maintains on campus housing facilities must establish a missing student notification policy and related procedures for students who reside in campus housing and who are determined to have been missing for 24 hours. This policy will have to be in place by the annual security report distributed by **October 1, 2010**. The policy allows students to register a confidential contact to be notified in case they are missing. If students are under 18, the parent must be notified. Students should be told that law enforcement will be notified if they are missing after 24 hours.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

Statute: 20 USC § 1092 (j)

Proposed Regulation

74 Federal Register 42380, August 21, 2009

34 CFR § 668.41 (a) Definition of on campus housing facility: a dormitory or other residential facility for students that is located on an institution's campus, as defined in § 668.46(a). (i.e. the same definition of campus used for crime reporting. For the purposes of the fire safety reporting requirements under proposed § 668.49 and the missing student notification policies and procedures requirements under proposed § 668.46, a student housing facility that is on property owned by an institution, even if the building is owned and maintained by a student organization or other party, would be considered an on-campus student housing facility. If neither the property nor the building is owned by the institution, then the student housing facility would not be covered by this definition.

34 CFR § 668.46 (b) (14) Missing student notification policy and procedures to be included in the annual security reported distributed by Oct. 1, 2010.

34 CFR § 668.46 (h) Specifies what the policy must include.

V. RESPONSIBLE FEDERAL AGENCIES

Department of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

Fines of up to \$27,500 per violation: 34 CFR § 668.84 and potential loss of ability to participate in Title IV programs.

VII. COMPLIANCE CHECKLIST

The policy must:

- Inform each such student that such student has the option to identify an individual to be contacted by the institution not later than 24 hours after the time that the student is determined missing in accordance with official notification procedures established by the institution;
- Provide each such student a means to register confidential contact information in the event that the student is determined to be missing for a period of more than 24 hours;
- Advise each such student who is under 18 years of age, and not an emancipated individual, that the institution is required to notify a custodial parent or guardian not later 24 hours after the time that the student is determined to be missing in accordance with such procedures;
- Inform each residing student that the institution will notify the appropriate law enforcement agency not later than 24 hours after the time that the student is determined missing in accordance with such procedures;
- Require, if the campus security or law enforcement personnel has been notified and makes a determination that a student who is the subject of a missing person report has been missing for more than 24 hours and has not returned to the campus, the institution to initiate the emergency contact procedures in accordance with the student's designation;
- Require any official missing person report relating to such student be referred immediately to the institution's police or campus security department.
- Proposed regulations add that only authorized campus officials and law enforcement officers in furtherance of the investigation may have access to the confidential contact information.

The procedures must:

- Include procedures for official notification of appropriate individuals at the institution that such student has been missing for more than 24 hours (the proposed regulations require institutions to include a list of the titles of persons or organizations to which a student will be reported missing);
- Require any official missing person report relating to such student be referred immediately to the institution's police or campus security department; and
- If, on investigation of the official report, such department determines that the missing student has been missing for more than 24 hours then

- (I) such department must contact the individual identified by such student;
- (II) if such student is under 18 years of age, and not an emancipated individual, the institution is to immediately contact the custodial parent or legal guardian of such student; and
- (III) if subclauses (I) or (II) do not apply to a student determined to be a missing person, inform the appropriate law enforcement agency.*

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

Dean of Students, Public Safety, Student Housing, Registrar, Office of General Counsel, President

IX. COMPLIANCE CALENDAR

Oct 1, 2010: inclusion in Annual Security Report.

X. SAMPLE POLICIES AND PROCEDURES

Note that the proposed regulations included text that was not in the statute so the policies listed below might not have included all required items.

Idaho State Policy

<http://www.isu.edu/pubsafe/policies/Missing%20Student%20Notification%20Policy.pdf>

Brigham Young University Policy

<http://www.byui.edu/housing/general/BYUIMissing%20Person%20Policy%20.pdf>

UW-Stout Missing Student Notification Form

http://www.uwstout.edu/housing/pdf_documents/missingstudentnotification.pdf

Sarah Lawrence College Guidelines for Responding to Missing Students

[http://www.slc.edu/offices-services/security/federal-clery-information/Guidelines%20 for Responding to Missing Students.html](http://www.slc.edu/offices-services/security/federal-clery-information/Guidelines%20for%20Responding%20to%20Missing%20Students.html)

XI. ADDITIONAL RESOURCES

NAICU HEA 101 Quick Guide

http://www.naicu.edu/special_initiatives/hea101/news_room/missing-person-procedures

Reporting and Disclosure Requirements for Institutions of Higher Education to Participate in Federal Student Aid Programs Under Title IV of the Higher Education Act

<http://openocrs.com/document/R40789/>

CLIC web page:

<http://counsel.cua.edu/missing.cfm>

NACUA HEOA Resource Page

http://www.nacua.org/lrs/NACUA_Resource_Page/HEOAResources.asp

Peer-to-Peer File Sharing

I. DISCUSSION

Over the past several years, the recording and movie industries have been aggressive at attempting to stop the illegal downloading of copyrighted material by college students. Much of their activity has focused on taking legal action against students on college campuses.

Institutions have acted to address the issue. In December 2002, a Joint Committee of the Higher Education and Entertainment Communities was formed, and it focused on three basic approaches: (1) campus policies and practices aimed towards reducing copyright violations; (2) use of computer management technologies to preclude violations; and (3) development of legal online music subscription services on campus.

Apparently dissatisfied with the progress of those efforts, the industry sought a legislative solution in 2006 as part of consideration of the Higher Education Act (HEA) reauthorization. During House consideration of the HEA reauthorization bill in March 2006, Representatives Howard Berman (D-CA) and Steny Hoyer (D-MD) introduced an amendment that would have required colleges to report annually to the Secretary of Education and to the Attorney General regarding their activities related to copyright violations and whether they use technology meant to prevent illegal file sharing and offer services that would permit legal downloads.

The American Council on Education, joined by several other higher education associations, expressed strong opposition to the amendment--based on concerns that it would draw the Attorney General into HEA program participation agreements (completely unprecedented), that the information requested would not be useful to students and parents, and that the Higher Education Act was not the appropriate place in which to address these concerns. The amendment was not offered, but several members of the House engaged in a colloquy with the then chairman of the House Committee on Education and the Workforce, Representative Howard ("Buck") McKeon (R-CA) to express concern that institutions of higher education were not doing as much as they should to deter illegal file sharing.

During the following Congress, both the House and Senate did include peer-to-peer file sharing provisions in their respective HEA reauthorization bills. As signed into law, the HEOA includes new disclosure requirements regarding institutional policies and sanctions as well as requirements for institutions to develop plans to combat illegal activity in this area.

II. COMPLIANCE AREA

Peer-to-Peer File Sharing

III. COMPLIANCE OBJECTIVES

The HEOA requires institutions to make disclosures to students about institutional policies and sanctions related to copyright infringement. In addition, an institution must certify it has developed plans to combat the unauthorized distribution of copyrighted material (including the use of technology-based deterrents) and will, to the extent practicable, offer alternatives to illegal downloading.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

Statute Statutory Language [New language in bold.]

SEC. 485. [20 U.S.C. 1092] INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

* * *

(P) institutional policies and sanctions related to copyright infringement, including—

- (i) an annual disclosure that explicitly informs students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities;**
- (ii) a summary of the penalties for violation of Federal copyright laws; and**
- (iii) a description of the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who engage in unauthorized distribution of copyrighted materials using the institution's information technology system;**

SEC. 487 [20 U.S.C. 1094] PROGRAM PARTICIPATION AGREEMENTS.

(a) REQUIRED FOR PROGRAMS OF ASSISTANCE; CONTENTS.—

* * *

(29) The institution certifies that the institution--

(A) has developed plans to effectively combat the unauthorized distribution of copyrighted material, including through the use of a variety of technology-based deterrents; and

(B) will, to the extent practicable, offer alternatives to illegal downloading or peer-to-peer distribution of intellectual property, as determined by the institution in consultation with the chief technology officer or other designated officer of the institution.

Regulations

Department of Education - General and Non-Loan Programmatic Issues; Proposed Rule – 74 Federal Register 42379-42463. August 21, 2009, online at <http://edocket.access.gpo.gov/2009/pdf/E9-18550.pdf>

Proposed regulation dealing with P2P file sharing at **34 CFR §§668.14(b) and 668.43(a)**

Note: The peer-to-peer file sharing provisions were one of the issues negotiated by Team V. Although the negotiators reached consensus on the file sharing provisions, they did not reach consensus on all the issues being negotiated. As such, the Department of Education was not bound by the decision of the team in issuing proposed regulations. However, in this case, the Department chose to include the file sharing provisions agreed to by the negotiators.

Preamble (pp. 42391-3)

Proposed Regulatory Language

§668.14 Program participation agreement. (pp. 42429-30)

* * * * *

(b) * * *

(30) The institution--

- (i) Has developed and implemented written plans to effectively combat the unauthorized distribution of copyrighted material by users of the institution's network, without unduly interfering with educational and research use of the network, that include--
 - (A) The use of one or more technology-based deterrents;
 - (B) Mechanisms for educating and informing its community about appropriate versus inappropriate use of copyrighted material, including that described in Sec. 668.43(a)(10);
 - (C) Procedures for handling unauthorized distribution of copyrighted material, including disciplinary procedures; and
 - (D) Procedures for periodically reviewing the effectiveness of the plans to combat the unauthorized distribution of copyrighted materials by users of the institution's network using relevant assessment criteria. No particular technology measures are favored or required for inclusion in an institution's plans, and each institution retains the authority to determine what its particular plans for compliance with paragraph (b)(30) of this section will be, including those that prohibit content monitoring; and
- (ii) Will, in consultation with the chief technology officer or other designated officer of the institution--
 - (A) Periodically review the legal alternatives for downloading or otherwise acquiring copyrighted material;
 - (B) Make available the results of the review in paragraph (b)(30)(ii)(A) of this section to its students through a Web site or other means; and
 - (C) To the extent practicable, offer legal alternatives for downloading or otherwise acquiring copyrighted material, as determined by the institution;

* * * * *

§ 668.43 Institutional information (pp. 42438-9)

(a) * * *
* * * * *

- (10) Institutional policies and sanctions related to copyright infringement, including--
 - (i) A statement that explicitly informs its students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities;
 - (ii) A summary of the penalties for violation of Federal copyright laws; and
 - (iii) A description of the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who engage in illegal downloading or unauthorized distribution of copyrighted materials using the institution's information technology system.

V. RESPONSIBLE FEDERAL AGENCIES

US Department of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

Failure to comply can result in fines of up to \$27,500 for each violation, (see **34 CFR § 668.84**) or loss of Title IV eligibility.

VII. COMPLIANCE CHECKLIST

- ✓ **Include in the disclosure materials prepared for students and prospective students information regarding institutional policies and sanctions related to copyright infringement.** The law and the proposed regulations require that this disclosure include information regarding the consequences of violations of copyright law and the institution's policies regarding unauthorized P2P file sharing.
- ✓ **Develop and implement a written plan to combat unauthorized distribution of copyrighted material by users of the institution's network.**
- ✓ **Develop, as needed, the elements described in the plan.** The plan must include the use of one or more technology-based deterrents; public outreach; procedures for handling violations; and procedures for reviewing the effectiveness of plans.
- ✓ **Conduct a periodic review of legal alternatives for downloading or otherwise acquiring copyrighted material and make the findings of the review available to students.**
- ✓ **To the extent practicable, offer legal alternatives to downloading.**

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

President; chief information officer; legal counsel.

IX. COMPLIANCE CALENDAR

This provision went into effect when the bill was signed into law on August 14, 2008.

X. SAMPLE POLICIES AND PROCEDURES

Cornell University

<http://www.cit.cornell.edu/policies/copyright/filessharing/>

Loyola University Chicago

http://luc.edu/its/file_sharing.shtml

University of North Carolina Chapel Hill

http://its.unc.edu/ITS/about_its/its_policies/index.htm

Ohio University

<http://www.ohio.edu/outlook/06-07/May/641n-067.cfm>

Reed College

http://www.reed.edu/cis/policies/heoa_p2p.html

XI. ADDITIONAL RESOURCES

EDUCAUSE

EDUCAUSE has followed activity related to the new P2P provisions very closely throughout the HEA reauthorization process. They have developed a great deal of useful background information—examples of which are cited below:

“Proposed HEOA Regulations Issued for P2P Provisions”

Created by [Steven Worona](#) (EDUCAUSE) on August 25, 2009

<http://www.educause.edu/blog/sworona/ProposedHEOARegulationsIssuedf/178175>

August 12, 2008 - EDUCAUSE, along with ACE, AAU, and NASULGC, prepared a memo summarizing what the law will require, what happens next, and what you should do now. The memo also includes the relevant portions of the Act, as well as the report language that accompanies and clarifies the law. That memo is posted at

<http://net.educause.edu/ir/library/pdf/epo0815.pdf>

Illegal File Sharing 101

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(<http://creativecommons.org/licenses/by-nc-sa/3.0/>).

EDUCAUSE Quarterly, vol. 31, no. 4 (October–December 2008)

<http://www.educause.edu/EDUCAUSE+Quarterly/EDUCAUSEQuarterlyMagazineVolume/IllegalFileSharing101/163441>

NACUANOTES - COPYRIGHT, PEER-TO-PEER FILE SHARING AND DMCA SUBPOENAS – November 6, 2003

This document describes suits brought by the Recording Industry Association of America (RIAA) for copyright infringement—one of many activities undertaken by the organization related to P2P file sharing on college campuses.

<http://counsel.cua.edu/copyright/publications/nacuanotes116.cfm>

New Rules Will Push Colleges to Rethink Tactics Against Student Pirates, *Chronicle of Higher Education* 2/13/09 (subscription required)

http://chronicle.com/free/v55/i23/23a01901.htm?utm_source=at&utm_medium=en

Fighting Music and Movie Piracy Costs Colleges Considerably, Study Says, *Chronicle of Higher Education*, 10/20/08 (subscription required)

<http://chronicle.com/free/2008/10/5202n.htm>

The Costs of Policing Campus Networks, *Inside Higher Ed*, 10/20/08

<http://insidehighered.com/news/2008/10/20/p2p>

Post-Graduate Information

I. DISCUSSION

The issue of what information should be provided to satisfy the new HEOA requirements regarding the disclosure of post graduate employment was a contentious one during the negotiated rulemaking process. It was one of the two issues over which the Team V (General and Non-Loan Programmatic Issues) negotiators were unable to reach consensus.

The disagreement turned on the decision of Department of Education negotiators to include a requirement that—if any program at an institution calculates placement rates—then the institution must include those rates in its disclosure. This requirement goes beyond the statutory language, which called for the disclosure of general information—not of specific placement rate data.

This particular disclosure was discussed at great length throughout the several years in which the HEA reauthorization bill was debated in Congress—with representative of institutions pointing out the difficulty of obtaining complete information from their alumni, who are under no obligation to respond to surveys. It was for this reason that the final legislative language offered a broad array of options for providing information about graduates and did not require highly specific data such as placement rates.

Although the proposed regulations do not go so far as to require the calculation of placement rates, they would impose additional burdens on institutions because they would now have to determine which of their programs are calculating placement rates and then gather additional information about any rates that are calculated. For example, if the Law School Career Office documents placement rates, then it must be disclosed, along with the source of the information, time frames and methodology.

The HEOA also requires the disclosure of information regarding participation in graduate and professional education by an institution's graduates. The proposed regulations dealing with this disclosure were not disputed, as they did not require the calculation or tracking of specific rates.

II. COMPLIANCE AREA

Post Graduate Information

III. COMPLIANCE OBJECTIVES

Each institution must disclose information about post graduate employment and also participation in graduate and professional education by its students. The information is to be gathered from sources such as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, the Community College Survey of Student Engagement, state data systems, or other relevant sources.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

Statute 20 USC § 1092

(a) Information dissemination activities

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall carry out information dissemination activities for prospective and enrolled students (including those attending or planning to attend less than full time) regarding the institution and all financial assistance under this subchapter and part C of subchapter I of chapter 34 of Title 42.

(R) the placement in employment of, and types of employment obtained by, graduates of the institution's degree or certificate programs, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, the Community College Survey of Student Engagement, State data systems, or other relevant sources;

(S) the types of graduate and professional education in which graduates of the institution's four-year degree programs enrolled, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, State data systems, or other relevant sources;

Proposed Regulation

74 Fed. Reg. 442380 August 21, 2009

Preamble (pp. 42394-5)

Proposed Regulations (pp. 42437-8)

34 CFR 668.41 (d) Disclosures for enrolled or prospective students.

An institution must make available to any enrolled student or prospective student through appropriate publications, mailings or electronic media, information concerning—

(5) The placement of, and types of employment obtained by, graduates of the institution's degree or certificate programs.

(i) The information provided in compliance with this paragraph may be gathered from—

(A) The institution's placement rate for any program, if it calculates such a rate;

(B) State data systems;

(C) Alumni or student satisfaction surveys; or

(D) Other relevant sources.

(ii) The institution must identify the source of the information provided in compliance with this paragraph, as well as any time frames and methodology associated with it.

(iii) The institution must disclose any placement rates it calculates.

(6) The types of graduate and professional education in which graduates of the institution's four-year degree programs enroll.

(i) The information provided in compliance with this paragraph may be gathered from—

(A) State data systems;

(B) Alumni or student satisfaction surveys; or

(C) Other relevant sources.

(ii) The institution must identify the source of the information provided in compliance with this paragraph, as well as any time frames and methodology associated with it.

V. RESPONSIBLE FEDERAL AGENCIES

Department of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

Fines of up to \$27,500 per violation: **34 CFR § 668.84** and potential loss of ability to participate in Title IV programs.

VII. COMPLIANCE CHECKLIST

- ✓ **Include in the disclosure information prepared for students and prospective students information regarding the employment and graduate/professional education of graduates of your institution.** This information can come from existing surveys conducted by the institution, State data systems, or any other relevant source.
- ✓ **Determine if any program at your institution calculates placement rates for its graduates.**
- ✓ **For any program that calculates placement rates, include those rates in the information disclosure.**
- ✓ **Identify in the employment and further education disclosures the source of the information, as well as the time frames and methodology associated with it.**

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

Alumni office; career services; institutional research; any other offices involved with graduate surveys or outcomes measures

IX. COMPLIANCE CALENDAR

Good Faith Effort effective with law in August 2008, however subject to negotiated rulemaking, so compliance not technically required until July 2010.

X. SAMPLE POLICIES AND PROCEDURES

XI. ADDITIONAL RESOURCES

Act Survey Services: See the Alumni Outcome Survey
<http://www.act.org/ess/fouryear.html>

Higher Education Data Sharing (HEDS) Consortium (this site, which is members only, will have a survey for alumni data)

<http://www.e-heds.org/>

Reporting and Disclosure Requirements for Institutions of Higher Education to Participate in Federal Student Aid Programs Under Title IV of the Higher Education Act

<http://openers.com/document/R40789/>

NACUA Higher Education Opportunity Act Resource Page

http://www.nacua.org/lrs/NACUA_Resource_Page/HEOAResources.asp

AIR Alert # 36 August 2008: New Disclosure and IPEDS Reporting Requirements in the Higher Education Opportunity Act

<http://www.airweb.org/images/AIRAlert36-1.pdf>

Update # 1 (May 18, 2009) to Air Alert #36

<http://www.airweb.org/page.asp?page=1948>

NAICU HEA 101 Quick Guide

http://www.naicu.edu/special_initiatives/hea101/news_room/post-graduate-information

ACE Analysis of Higher Education Act

http://www.acenet.edu/e-newsletters/p2p/ACE_HEA_analysis_818.pdf

Student Loan “Sunshine” Requirements

I. DISCUSSION

The congressional focus on greater student loan disclosures was spurred by the highly publicized investigations by New York Attorney General Andrew Cuomo regarding relationships between institutions of higher education and financial institutions. As a result, several new “sunshine” provisions have been dispersed throughout the Higher Education Act—requiring additional loan disclosures and related compliance activities by colleges with respect to federal student loans. In addition, amendments to the Truth in Lending Act (TILA) developed by the congressional committees with jurisdiction over banking issues were added as Title X of the HEAO. These provisions address private student lending.

II. COMPLIANCE AREA

Student Loan “Sunshine” Requirements

III. COMPLIANCE OBJECTIVES

The HEOA imposes new restrictions on colleges, guaranty agencies and both federal and private lenders, in order to prevent conflicts between their interests and their responsibilities to borrowers. Issues addressed include “prohibited inducements” by lenders, new disclosures to borrowers, and requirements for institutional codes of conduct. The law also defines the requirements for preferred lender lists developed by colleges.

Under HEOA, colleges can be held liable for the actions of certain “institution-affiliated organizations,” such as alumni associations and athletic booster clubs.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

Statute:

Link to statutory language cited below may be found at:

http://www.naicu.edu/special_initiatives/heaguide/news_room/student-loan-sunshine-provisions

Higher Education Act: Title I, Part E - LENDER AND INSTITUTION REQUIREMENTS RELATING TO EDUCATION LOANS - Sections 151 - 154

[20 USC 1019, 1019a, 1019b, 1019c]

Higher Education Act: Title IV

Section 428(b)(3) [20 USC 1078]; Section 433 [20 USC 1083]; Section 435(d)(5)[20 USC 1087e]; Section 455(p) [20 USC 1092]; Section 485(m) [20 USC 1094]; Section 487(a)(25) [20 USC 1094]; Section 487(a)(27), (28) [20 USC 1094]; Section 487(e) [20 USC 1094]; Section 487(g), (h), (I)[20 USC 1094]

Regulations:

Federal Register - November 1, 2007, Final Rule, pages 61959 - 62001 ([HTML](#) / [PDF](#))
34 CFR 674, 682 and 685. (Federal Loan Programs). These rules remain in effect unless superseded by HEOA.

Federal Register July 23, 2009. Proposed Rules, pages 36556-36602. Department of Education , 34 CFR, Parts 674, 682, and 685. (Federal Loan Programs)
[Federal Register. Vol. 74, No. 140](#)

Federal Register July 28, 2009. Proposed Rules, pages 37432 -37494. Department of Education , 34 CFR, Parts 601, 668, 674, 682, and 685. (Federal Loan Programs)
This proposed regulation spells out the sunshine provisions and disclosure requirements.
[Federal Register Vol. 74. No. 143, pp. 37432-37494](#)

Federal Register August 14, 2009. Final Rule, pages 41194-41257.
Federal Reserve System, 12 CFR, Part 226; Regulation Z, Docket No. R-1353; Truth in Lending
<http://edocket.access.gpo.gov/2009/E9-18548.htm>

This final rule was issued by the Board of Governors of the Federal Reserve System. It amends Regulation Z, which implements the Truth in Lending Act (TILA)--following enactment of the Higher Education Opportunity Act (HEOA) on August 14, 2008. The rule revises the disclosure

requirement for private education loans which include certain institutional loans. Interest-free tuition billing plans of less than a year and emergency loans with terms of 90 days or less are excluded from the disclosures in TILA. Certain loans to students who have completed graduate or professional schools would not be excluded. Loan co-branding restrictions will not be applicable to institutional loans or loans of preferred providers.

V. RESPONSIBLE FEDERAL AGENCIES

Department of Education
Federal Reserve System

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

Failure to comply can result in fines of up to \$27,500 for each violation, (see **34 CFR § 668.84**) or limitation or loss of Title IV eligibility.

VII. COMPLIANCE CHECKLIST

- ✓ Review loan activities of the institution and institution-affiliated organizations and identify those for which reports and disclosures are required.
- ✓ Assure that required reports and disclosures are made.

- ✓ Develop (or revise) and publish a Code of Conduct with respect to the federal loan programs in which the institution participates.
- ✓ In addition, review and revise any Codes of Conduct that were written as a result of state Attorneys General Enforcement Actions or state or local codes.

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

President; financial aid; legal counsel; business/finance office; development office.

IX. COMPLIANCE CALENDAR

These provisions went into effect when the bill was signed into law on August 14, 2008. Regulations issued prior to enactment of HEOA (on November 1, 2007) also continue to apply unless they were superseded by the new law.

X. SAMPLE POLICIES AND PROCEDURES

XI. ADDITIONAL RESOURCES

NAICU HEA 101 Quick Guide

http://www.naicu.edu/special_initiatives/heaguide/news_room/student-loan-sunshine-provisions

Department of Education – Information for Financial Aid Professionals

<http://www.ifap.ed.gov/ifap/index.jsp>

Department of Education Training Session

The Department of Education has posted on its website a 90-minute training session, intended for all schools that participate in the FFEL and Direct Loan programs. the training was offered on April 30, 2009, May 13, 2009, June 2, 2009, and June 8, 2009. [2009-07-24](#) - (ANN-09-17) Subject: Webinar Recording - HEOA Changes to FFEL and Direct Loan Programs

Department of Education Guidance on Use of a Preferred Lender List

This letter provides guidance to schools that provide students, prospective students, and their families with a list of preferred lenders to assist with the selection of a FFEL Lender [2008-05-09](#) - (FP-08-06) School Use of a Preferred Lender List in the FFEL Program

NACUANOTES authored by NACUA member Kate Tromble. September 16, 2008. This note covers general new reporting and disclosure requirements specifically related to student lending practices.

<http://counsel.cua.edu/fedlaw/HEOII.cfm>

The Catholic University of America – The Office of General Counsel

Truth in Lending Act (Regulation Z)

<http://counsel.cua.edu/FEDLAW/Tila.cfm>

The Catholic University of America – The Office of General Counsel Financial Aid Programs

The “Resources” section of this page contains a number of useful links—including to the NACUA Resource Page on Preferred Lender Program Investigations and Practices, the Department of Education’s Federal Student Financial Aid Handbook.

<http://counsel.cua.edu/fedlaw/Ppa.cfm>

The Catholic University of America – The Office of General Counsel Responsibilities of the Director of Student Financial Aid

<http://compliance.cua.edu/financialaid/DirectorFinancialAid.cfm>

Fed Proposes Rules to Boost Disclosure of Student-Loan Terms (Bloomberg.com, 3/11/09)

Teacher Preparation

I. DISCUSSION

The Title II teacher preparation provisions are the area of the Higher Education Act in which higher education policies are linked most closely with those of elementary and secondary education. Improving the quality of the teaching force is a major objective of K-12 policymakers.

The “report card” provisions of Title II reflect the belief of elementary and secondary education reformers that massive data collection efforts are integral to the success of efforts to bring about improvement. The HEOA provisions expand the reporting requirements first included in Title II in 1998 and require the development of quantifiable goals for addressing teaching shortage areas.

The use of this information is likely to be tied closely to ongoing elementary and secondary education reform efforts—including the reauthorization of the No Child Left Behind Act and the Administration’s “Race to the Top” initiative.

II. COMPLIANCE AREA

Teacher Preparation

III. COMPLIANCE OBJECTIVES

Report Cards: Institutions with teacher preparation programs and that receive federal student assistance will have increased reporting requirements on the Institutional Report Cards.

Annual Goals: These institutions must also set annual goals regarding teacher development in shortage areas identified by their states, and provide assurances that they are working toward those goals.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

Statute

**20 U.S.C. 1022d, 20 U.S.C. 1022e, 20 U.S.C. 1022f, 20 U.S.C. 1022g,
20 U.S.C. 1041**

Regulations

No regulations have been issued; however, the Department of Education provides a great deal of technical assistance on its website at <https://title2.ed.gov/default.asp>.

V. RESPONSIBLE FEDERAL AGENCIES

US Department of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

All Institutions: The Secretary may impose a fine not to exceed \$27,500 on an institution of higher education for failure to provide the information required for the institutional and program report cards described in section 205(a) in a timely or accurate manner. **(Section 205(a)(3))**

States: A State will lose funding under the Higher Education Act if it does not: (1) conduct an assessment to identify low-performing teacher preparation programs in the State and (2) provide technical assistance to the programs identified. **(Section 206(a))**

Low-performing Teacher Preparation Programs: If a State withdraws its approval from or terminates financial support to a teacher preparation program due to low performance on the State assessment, that teacher education program will be ineligible for Department of Education funding for professional development activities and may not enroll any student who receives federal financial aid under HEA Title IV. **(Section 206(b))**

VII. COMPLIANCE CHECKLIST

Institutions of higher education that conduct teacher preparation programs must do the following:

- ✓ **Prepare annual report card for the State and general public** that includes the additional information required under HEOA—including information regarding the goals set by the institution for teacher development. **(Section 205(a))**
- ✓ **Establish annual quantifiable goals** for increasing the number of prospective teachers trained in teacher shortage areas designated by the Secretary of Education or by the State. **(Section 206(a))**
- ✓ **Provide assurances to the Secretary of Education** regarding the training provided to prospective teachers with respect to: its linkage to the identified needs of the State, LEA, and schools; special education course work; instruction to diverse populations; and teaching in urban and rural schools. **(Section 206(b))**

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

School or department of education teacher preparation office; institutional research

IX. COMPLIANCE CALENDAR

This provision went into effect when the bill was signed into law on August 14, 2008, meaning that the next institutional report card on teacher preparation programs must include the additional information required under HEOA.

X. SAMPLE POLICIES AND PROCEDURES

State report cards (which include the information reported by institutions) are posted on the Department of Education's website at:

<https://title2.ed.gov/title2dr/ChooseState.asp?Type=Map&Year=2008>

XI. ADDITIONAL RESOURCES

NAICU HEA 101 Quick Guide

http://www.naicu.edu/special_initiatives/heaguide/news_room/teacher-preparation-report-cards

Department of Education – Title II Technical Assistance and Resources

This portion of the Department of Education's website provides technical assistance and resources for Title II (Sections 207 and 208) of the Higher Education Act.

<https://title2.ed.gov/default.asp>. Among other things, this site provides a link to the *Higher Education Opportunity Act, Title II: Reporting Reference and User Manual*
<https://title2.ed.gov/guide.asp>

April 7, 2009, *Federal Register* [announcement](#) included the draft institutional and state report card forms required under the accountability provisions in Title II of the Higher Education Opportunity Act (HEOA). Public comment on the forms was due by June 8.

American Association of Colleges for Teacher Education (AACTE)

(<http://www.aacte.org/>)

AACTE comparison chart between HEA and HEOA

[http://www.aacte.org/pdf/Government_Relations/Language Comparisons of Accountability Provisions of HEA and HEOA for web with edits.pdf](http://www.aacte.org/pdf/Government_Relations/Language_Comparisons_of_Accountability_Provisions_of_HEA_and_HEOA_for_web_with_edits.pdf)

AACTE summary of Title II, Section by Section

[http://www.aacte.org/pdf/Government_Relations/Summary of the Higher Education Opportunity Act with edits.pdf](http://www.aacte.org/pdf/Government_Relations/Summary_of_the_Higher_Education_Opportunity_Act_with_edits.pdf)

Higher Education Act of 1965, as amended in 2008 by the Higher Education Opportunity Act
HEA

Title II State Report Card on the Quality of Teacher Preparation

Office of Postsecondary Education
U.S. Department of Education

Contact Information

State: _____

Contact person: _____

Title: _____

Agency: _____

Address: _____

Email: _____

Telephone no.: () _____ - _____

Fax no.: () _____ - _____

Website: _____

Academic year: 2009-10 _____

Section 205 of Title II of the *Higher Education Opportunity Act* mandates that the Department of Education collect data on state assessments, other requirements, and standards for teacher certification and licensure, as well as data on the performance of teacher preparation programs. The law requires the Secretary to use these data in submitting an annual report on the quality of teacher preparation to the Congress. The first Secretarial report is due April 2011. Annual state reports to the Secretary are first due on October 7, 2010. Data from institutions with teacher preparation programs are due to states annually, beginning April 7, 2010, for use by states in preparing annual report cards to the Secretary.

Paperwork Burden Statement

This is a required data collection. Response is not voluntary. 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 1840-0744 (expiration date: 9/30/2012). The time required for states to complete this information collection is estimated to average 910 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202-4651. If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Assistant Secretary, Office of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW, Room 7115, Washington, DC 20006.

Note: The procedures for developing the information required for these tables are explained in the *Higher Education Opportunity Act, Title II: Reporting Reference and User Manual*. Terms and phrases in this questionnaire are defined in the glossary, appendix X of the manual.

Introduction (optional)

Section I. Program information

(A) For each element listed below, check those required for admission into each traditional initial teacher certification preparation program at institutions of higher education in the state at either the undergraduate (UG) or postgraduate (PG) level. (§205(b)(1)(G)(i))

TPP name	Application		Fee/payment		Transcript		Fingerprint check		Background check		Experience in a classroom or working with children		Minimum number of courses/credits/semester hours completed		Bachelor's degree or higher		Job offer from school/district		
	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	

TPP name	Minimum high school GPA		Minimum undergraduate GPA		Minimum GPA in content area coursework		Minimum GPA in professional education coursework		Recommendation(s)		Essay or personal statement		Interview		Résumé		Personality test (e.g., Myers-Briggs Assessment)		
	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	

TPP name	Minimum ACT score		Minimum SAT score		Minimum basic skills test score		Subject area/academic content test or other subject matter verification		Minimum GRE score		Minimum Miller Analogies test score		Other (specify: _____)	
	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG

(B) For each element listed below, check those required for admission into each alternative initial teacher certification preparation program in the state at either the undergraduate (UG) or postgraduate (PG) level. Include alternative routes to teacher certification or licensure within institutions of higher education (IHEs) and outside of IHEs. (§205(b)(1)(G)(i))

TPP name	Application		Fee/payment		Transcript		Fingerprint check		Background check		Experience in a classroom or working with children		Minimum number of courses/credits/semester hours completed		Bachelor's degree or higher		Job offer from school/district	
	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG

TPP name	Minimum high school GPA		Minimum undergraduate GPA		Minimum GPA in content area coursework		Minimum GPA in professional education coursework		Recommendation(s)		Essay or personal statement		Interview		Résumé		Personality test (e.g., Myers-Briggs Assessment)	
	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG

TPP name	Minimum ACT score		Minimum SAT score		Minimum basic skills test score		Subject area/academic content test or other subject matter verification		Minimum GRE score		Minimum Miller Analogies test score		Other (specify: _____)	
	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG	UG	PG

(C) Provide the number of students in each initial teacher certification preparation program in the state in 2009-10 in the following categories. Include both traditional programs and alternative routes to teacher certification or licensure (both within IHEs and outside of IHEs). Note that you must report on the number of students by ethnicity and race separately. Individuals who are non-Hispanic/Latino will be reporting in one of the race categories. Also note that individuals can belong to one or more racial groups, so the sum of the members of each racial category may not necessarily add up to the total number of students enrolled. (§205(b)(1)(G)(ii))

Teacher preparation program name	Unduplicated number of males enrolled	Unduplicated number of females enrolled	Total number of students enrolled

Teacher preparation program name	Number of students enrolled by ethnicity	Number of students enrolled by race					
	Hispanic/Latino of any race	American Indian or Alaska Native	Asian	Black or African American	Native Hawaiian or Pacific Islander	White	Two or more races

(D) For each initial teacher certification preparation program in the state, provide the following information about supervised clinical experience in 2009-10. Include both traditional programs and alternative routes to teacher certification or licensure (both within IHEs and outside of IHEs). (§205(b)(1)(G)(iii), §205(b)(1)(G)(iv))

Teacher preparation program name	Average number of clock hours required prior to student teaching	Average number of clock hours required for student teaching	Number of full-time equivalent faculty in supervised clinical experience during this academic year	Number of full-time equivalent adjunct faculty in supervised clinical experience during this academic year (IHE and PreK-12 staff)	Number of students in supervised clinical experience during this academic year

(E) For each initial teacher certification preparation program in the state, provide the number of teachers prepared, by area of certification or licensure, academic major and subject area prepared to teach in 2009-10. Include both traditional programs and alternative routes to teacher certification or licensure (both within IHEs and outside of IHEs). (§205(b)(1)(H))

Teacher preparation program name	Teacher preparation program type	Teacher preparation program sponsored by IHE?	Area of certification/licensure	Number prepared
Total				

Teacher preparation program name	Teacher preparation program type	Teacher preparation program sponsored by IHE?	Academic major	Number prepared
Total				

Teacher preparation program name	Teacher preparation program type	Teacher preparation program sponsored by IHE?	Subject area	Number prepared
Total				

(F) Provide the following:

Total number of traditional teacher preparation program completers in 2007-08	
Total number of traditional teacher preparation program completers in 2008-09	
Total number of traditional teacher preparation program completers in 2009-10	
Total number of alternative route program completers in 2007-08 within IHEs	
Total number of alternative route program completers in 2008-09 within IHEs	
Total number of alternative route program completers in 2009-10 within IHEs	
Total number of alternative route program completers in 2007-08 outside of IHEs	
Total number of alternative route program completers in 2008-09 outside of IHEs	
Total number of alternative route program completers in 2009-10 outside of IHEs	
Total number of initial teaching licenses or certificates issued in 2009-10 to individuals trained in your state	
Total number of initial teaching licenses or certificates issued in 2009-10 to individuals trained in another state	

Section II. Reliability and validity of teacher certification or licensure assessments and requirements

Provide documentation on the reliability and validity of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by the state. Provide links to websites, as applicable. (§205(b)(1)(A))

Section III. Teacher certification or licensure requirements

List each teaching certificate or license currently issued by the state and answer the questions about each certificate or license. Include all teaching licenses including initial, emergency, temporary, provisional, permanent, professional and master teacher licenses and well as any licenses given specifically to those participating in or completing alternative routes to certification or licensure. Do not include certificates/licenses for principals, administrators, social workers, guidance counselors, speech/language pathologists or any other school support personnel. (§205(b)(1)(A))

1. Certificate name:
2. Is this an initial certificate?
3. Is this an emergency, temporary or provisional certificate?
4. Is this certificate given only to alternative routes to teacher certification participants or completers?
5. Is this certificate given only to career/technical education teachers?
6. Is this a permanent certificate?
7. Duration of certificate (in years):
8. Is this certificate renewable?
 - a. How many times?
 - b. Renewal duration (in years)
 - c. Renewal requirements
9. Is a bachelor's degree required?
10. Is a master's degree or higher required?
11. Is a bachelor's degree in education required?
12. Is this certificate granted at the elementary level?
 - a. What is the grade span covered by this certificate?
 - b. Is a bachelor's degree in a subject area or academic content area (other than elementary education) required?
13. Is this certificate granted at the middle school level?
 - a. What is the grade span covered by this certificate?
 - b. Is a bachelor's degree in a subject area or academic content area required?
14. Is this certificate granted at the secondary level?
 - a. What is the grade span covered by this certificate?
 - b. Is a bachelor's degree in a subject area or academic content area required?
15. Will transcript analysis (for degrees from non-U.S. postsecondary institutions) be accepted?
16. Is a state-approved teacher education program required?
17. Is there a credit hour requirement for pedagogy, professional knowledge and/or professional education coursework?
18. Is there a grade point average (GPA) requirement for general and/or professional education coursework?
19. Are tests or assessments required?
20. Are performance assessment (such as portfolios) required?
21. Is there a recency of credit requirement?
22. Are passing state prescribed coursework and/or written assignments required?
23. Is professional employment as a teacher required?
24. Is passing National Board of Professional Teaching Standards required?
25. Is completion of a supervised clinical experience required?
26. Is professional development or continuing education experience required?
27. Is participation in a mentoring program required?
28. Of fingerprinting, background check or police record examination, which are required?
29. Is United States citizenship required?
30. Are there any other requirements?

Section IV. State teacher standards and criteria for certification or licensure (§205(b)(1)(B), §205(b)(1)(C))

1. Has the state developed standards that prospective teachers must meet in order to attain initial teacher certification or licensure?
2. Is there a unique, overarching set of teacher standards that currently applies to all teaching fields and grade levels?
3. Are there distinct state teacher standards for early childhood education (birth through age 6)?
4. Are there distinct state teacher standards for early elementary education (grades K-3)?
5. Are there distinct state teacher standards for upper elementary education (grades 4-6)?
6. Are there distinct state teacher standards for middle grades education?
7. Are there distinct state teacher standards for secondary education?
8. Were the standards of any national organizations used, modified or referenced in the development of the state teacher standards? If yes, please specify.
9. Specify where there are state teacher standards for the following specific teaching fields and grade levels:

Teaching field	Grade level					
	All levels	Early childhood	Grades K-3	Grades 4-6	Middle grades	Secondary grades
Arts						
Bilingual education, ESL						
English/language arts						
Foreign languages						
Mathematics						
Science						
History						
Geography						
Civics/government						
Economics						
Social studies						
Special education						
Technology in teaching						
Vocational/technical education						
Other (specify: _____)						

10. Has the state established challenging academic content standards for K-12 students that specify what children are expected to know and be able to do; contain coherent and rigorous content; and encourage the teaching of advanced skills?
11. Has the state established early learning standards for early childhood education programs?
12. Has the state established a policy that links, aligns or coordinates teacher certification or licensure standards with the assessments required for teacher certification or licensure?
13. Has the state established a policy that links, aligns or coordinates teacher certification or licensure standards with the challenging academic content standards for K-12 students?
14. Has the state established a policy that links, aligns or coordinates teacher certification or licensure standards with early learning standards for early childhood education programs?
15. Has the state established a policy that links, aligns or coordinates teacher certification or licensure assessments with the challenging academic content standards for K-12 students?
16. Has the state established a policy that links, aligns or coordinates teacher certification or licensure assessments with early learning standards for early childhood education programs?
17. Are there other steps being taken to develop or implement teacher standards and align teacher preparation, certification, licensure or assessment standards with content standards for students?

Section V. Pass rates and scaled scores

Provide the information in the following tables on the performance of students of each teacher preparation program on each teacher certification/licensure assessment used by your state. This information may be provided to your state by the testing companies. Include traditional teacher preparation programs, alternative routes to teacher certification or licensure within institutions of higher education and alternative routes to teacher certification or licensure operated by entities that are not institutions of higher education. In cases where a student has taken a given assessment more than once, the highest score on that test must be used. There must be at least 10 students in each category taking the same assessment in an academic year for data on that assessment to be reported; for summary data, there must also be at least 10 students (although not necessarily taking the same assessment) for data to be reported. In cases where there are less than 10 students taking the same assessment and the assessment pass rate is not reported, those students must be included in the summary data. Enrolled students are those students admitted to the teacher preparation program who have not yet completed the program.

ASSESSMENT PASS RATES (§205(b)(1)(D), §205(b)(1)(E))

TPP code	TPP name	Assessment code	Assessment name	Test company/ entity code	Group	Number taking test	Average scaled score	Number passing test	Pass rate (%)
					All enrolled students who have completed all nonclinical courses				
					Other enrolled students				
					All program completers, 2009-10				
					All program completers, 2008-09				
					All program completers, 2007-08				
	Statewide average								

SUMMARY PASS RATES

TPP code	TPP name	Group	Number taking one or more required tests	Number passing all tests taken	Pass rate (%)
		All program completers, 2009-10			
		All program completers, 2008-09			
		All program completers, 2007-08			
	Statewide average				

CUT SCORE TABLE

For each assessment required for initial certification or licensure listed below, provide the low end (lowest possible score), high end (highest possible score) and cut score (minimum passing score).

Assessment	Low end	High end	Cut score

Section VI. Alternative routes to teacher certification or licensure (§205(b)(1)(E))

1. Has the state approved any alternative routes to certification or licensure?
2. Is the state considering or has the state proposed alternative routes to certification or licensure?
3. Has the state approved alternative routes to certification or licensure, but no entity is currently implementing them?
4. Has the state approved and implemented one or more alternative routes to certification or licensure?

For all state-approved alternative routes, both implemented and not implemented, list each alternative route and answer the questions about each route.

1. Alternative route name:
2. Year approved by the state:
3. Year implemented:
4. Number enrolled during the 2009-10 academic year:
5. Is this alternative route limited to teaching certain subject areas or grade levels? If yes, please specify.
6. Is this alternative route designed to address critical shortage areas? If yes, please specify.
7. Maximum number of years allowed to complete alternative route program:
8. Is this route intended for mid-career switchers?
9. Is a teaching license issued to an individual participating in this route? If yes, please specify.
10. Is a bachelor’s degree required?
 - a. Is a bachelor’s degree in a subject area required?
11. Are pedagogy or professional knowledge classes required?
12. Is there a credit hour requirement for general and/or professional education coursework?
13. Is there a grade point average (GPA) requirement for general and/or professional education coursework?
14. Are tests or assessments required?
15. Are performance assessment (such as portfolios) required?
16. Is passing state prescribed coursework and/or written assignments required?
17. Is professional employment as a teacher required?
18. Is completion of a supervised clinical experience required? If yes, please describe.
19. Is professional development or continuing education experience required?
20. Is participation in a mentoring program required?
21. Is a person participating in this route considered highly qualified under the *No Child Left Behind Act*?
22. Is there a service requirement upon completion of this alternative route? If yes, please specify:
 - a. Teaching in a high-needs school? How many years: _____
 - b. Teaching in a critical shortage area? How many years: _____
23. Of fingerprinting, background check or police record examination, which are required?
24. Is United States citizenship required?
25. Who administers the alternative route:

state	institution of higher education	district
non-profit or private organization	other (specify: _____)	

If the alternative route is administered by institutions of higher education, select the institutions offering this alternative route:

26. Are there any other requirements? Please specify.
27. Website: _____

Section VII. Criteria for assessing the performance of teacher preparation programs in the state (§205(b)(1)(F), §207(a))

1. Has the state implemented criteria for assessing the performance of traditional teacher preparation programs? If yes, provide the implementation date.
2. Has the state implemented criteria for assessing the performance of alternative routes to teacher certification or licensure? If yes, provide the implementation date.
3. List the entities involved in implementation:
4. Specify any national organizations whose criteria are being used or that are involved in some other way:
5. If the state has not implemented criteria, has the state proposed criteria for assessing teacher preparation program performance?
6. Do the state criteria include a determination of passing rates on state certification or licensure assessments in the academic content areas?
7. Do the state criteria include indicators of teaching skills? Describe the state criteria for assessing the performance of teacher preparation programs for:
 - 7.a. Assessing the ability of teacher preparation program enrollees to employ teaching and learning strategies that focus on the identification of the specific learning needs of students who are gifted and talented, and to tailor academic instruction to such needs.
 - 7.b. Assessing the ability of teacher preparation program enrollees to employ teaching and learning strategies that focus on the identification of the specific learning needs of students with disabilities, and to tailor academic instruction to such needs.
 - 7.c. Assessing the ability of teacher preparation program enrollees to employ teaching and learning strategies that focus on the identification of the specific learning needs of students who are limited English proficient, and to tailor academic instruction to such needs.
 - 7.d. Assessing the ability of teacher preparation program enrollees to employ teaching and learning strategies that focus on the identification of the specific learning needs of students with low literacy levels, and to tailor academic instruction to such needs.
8. Do the state criteria include progress in increasing the percentage of highly qualified teachers in the state?
9. Do the state criteria include progress in increasing professional development opportunities?
10. Do the state criteria include progress in improving student academic achievement for elementary and secondary students?
11. Do the state criteria include progress in raising the standards for entry into the teaching profession?
12. Are there any other criteria? Please specify.

Section VIII. Low performing state teacher preparation programs (§207(a))

1. Provide a list of the criteria your state has defined for classifying traditional teacher preparation programs as “low performing” or “at risk of being low performing.”
2. Provide a list of the criteria your state has defined for classifying alternative routes to teacher certification or licensure as “low performing” or “at risk of being low performing.”
3. Provide a description of the procedures your state uses to identify and assist (through the provisions of technical assistance) low-performing traditional teacher preparation programs.
4. Provide a description of the procedures your state uses to identify and assist (through the provisions of technical assistance) low-performing alternative routes to teacher certification or licensure.
5. Last year, your state indicated that the following traditional and alternative teacher preparation programs were classified as low performing or at risk of being classified as low performing. For each program, indicate whether the program is still classified as low performing or at risk of being so classified.
 - a. Program name:
 - b. Institution name:
 - c. Program type (traditional or alternative):
 - d. At risk or low performing:
 - e. Date designated:
6. Provide a list of traditional and alternative teacher preparation programs in your state that are currently classified as low performing or at risk of being so classified.
 - a. Program name:
 - b. Institution name:

- c. Program type (traditional or alternative):
- d. At risk or low performing:
- e. Date designated:

Section IX. Shortages of highly qualified teachers

Provide a description of the extent to which teacher preparation programs are addressing shortages of highly qualified teachers, by area of certification or licensure, subject, and specialty, in your state’s public schools. Include planning activities and timelines if these activities are not currently in place. Include both traditional programs and alternative routes to teacher certification or licensure, as applicable. (§205(b)(1)(I))

Section X. Teacher Training

Provide a description of the extent to which teacher preparation programs prepare teachers, including general education and special education teachers, to teach students with disabilities effectively, including training related to participation as a member of individualized education program teams, as defined in section 614(d)(1)(B) of the *Individuals with Disabilities Education Act*¹. Include planning activities and timelines if these activities are not currently in place. Include both traditional programs and alternative routes to teacher certification or licensure, as applicable. (§205(b)(1)(J))

Provide a description of the extent to which teacher preparation programs prepare teachers, including general education and special education teachers, to effectively teach students who are limited English proficient. Include planning activities and timelines if these activities are not currently in place. Include both traditional programs and alternative routes to teacher certification or licensure, as applicable. (§205(b)(1)(L))

Section XI. Use of Technology

Provide a description of the activities that prepare teachers to integrate technology effectively into curricula and instruction, including activities consistent with the principles of universal design for learning; and use technology effectively to collect, manage, and analyze data to improve teaching and learning for the purpose of increasing student academic achievement. Include planning activities and timelines if these activities are not currently in place. Include both traditional programs and alternative routes to teacher certification or licensure, as applicable. (§205(b)(1)(K))

¹ The term ‘individualized education program team’ or ‘IEP Team’ means a group of individuals composed of the parents of a child with a disability; not less than 1 regular education teacher of such child (if the child is, or may be, participating in the regular education environment); not less than 1 special education teacher, or where appropriate, not less than 1 special education provider of such child; a representative of the local educational agency who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; is knowledgeable about the general education curriculum; and is knowledgeable about the availability of resources of the local educational agency; an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described above; at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and whenever appropriate, the child with a disability.

Section XII. Efforts to improve teacher quality

List and describe any steps taken by the state during the past year to improve the quality of the current and future teaching force. (§205(d)(2)(A))

Section XIII. Certification

I certify that, to the best of my knowledge, the information in this report is accurate and complete and conforms to the definitions and instructions used in the *Higher Education Opportunity Act, Title II: Reporting Reference and User Manual*.

_____ Signature

_____ Name of responsible representative for the state

_____ Title

Certification of review of submission:

_____ Signature

_____ Name

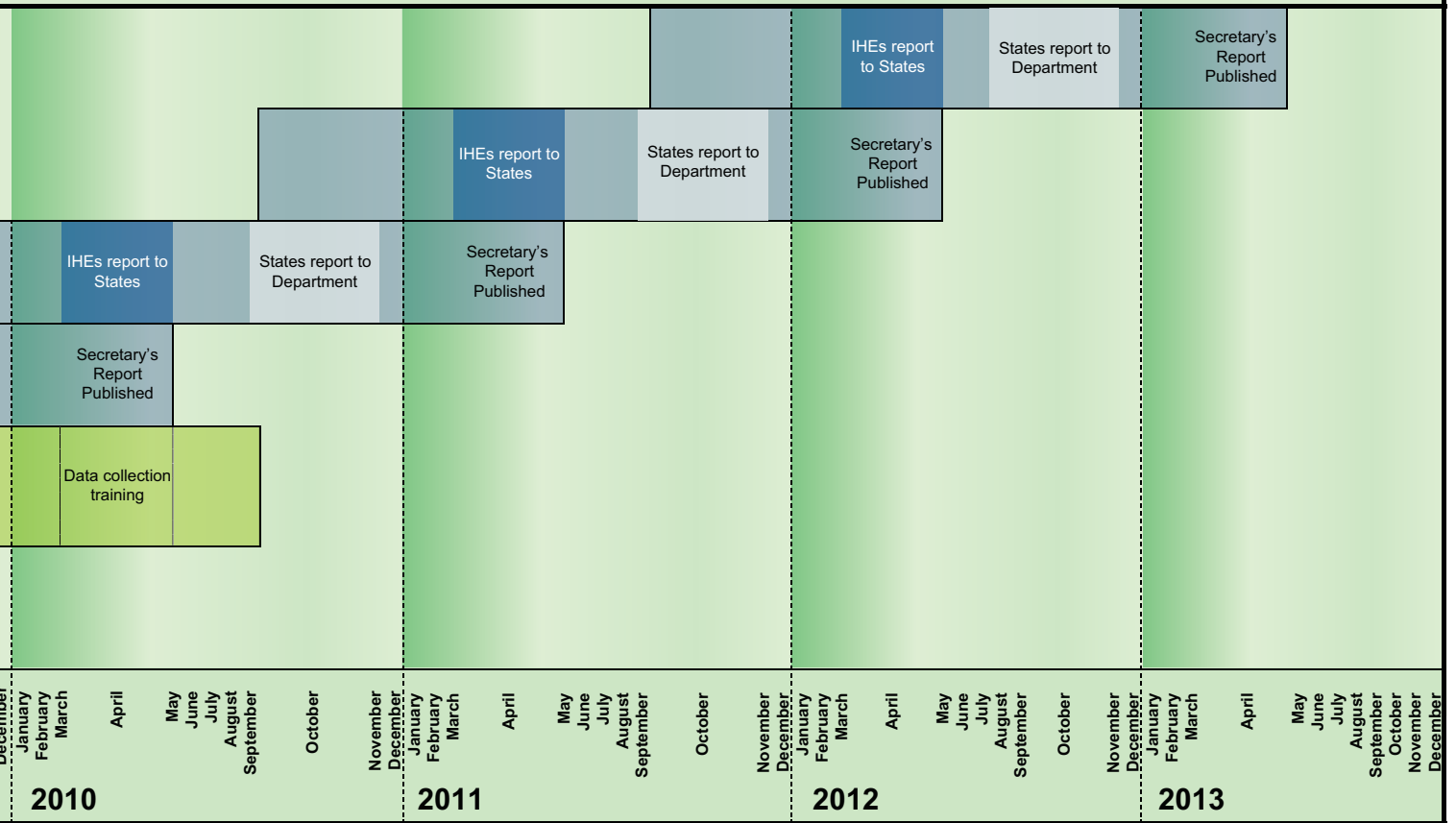
_____ Title

Supplemental information (optional)

Title II HEOA: Transition to a New Data Collection System on Teacher Accounts

Reporting Year	Current pass rate year	Title II HEOA: Transition to a New Data Collection System on Teacher Accounts																	
2012 (New System)	2010-11	Last revised: 1/2/2009																	
2011 (New System)	2009-10																		
2010 (Interim)	2008-09																		
2009 (Interim)	2007-08							IHEs report to States (using old system)				States report to Department							
Revision of data collection and reporting process		HEOA legislation passed	Forms and process redrafted	Workshop: Houston, TX	Forms and process revised	OMB clearance requested	Regulations developed and submitted	Public comment periods	Final revisions	IHEs are alerted as to future data collection demands	IHE data collection preparations begin	IHEs store 2007-08, 2008-09 program completers	IHEs set goals for increased teacher numbers						
2008 (Old system)	2006-07		States report to Department					Department Report Published											
		August	September	October	November	December	January	February	March	April	May	June	July	August	September	October	November	December	
		2008					2009												

Accountability (Proposed Timeline)



Textbooks

I. DISCUSSION

This provision is designed to give students options for obtaining textbooks at the best possible price and was put in the law in response to the high price of a number of textbooks. A number of schools have already put into place creative solutions, and some of these are highlighted on the American Council on Education web link on this provision of the HEOA. See http://www.solutionsforourfuture.org/site/PageServer?pagename=heoa_home.

II. COMPLIANCE AREA:

Textbooks

III. COMPLIANCE OBJECTIVES:

The IHE must, to the *maximum extent practical*, disclose on the online course schedule the International Standards Book Number (ISBN) and retail price for required and recommend textbooks and other supplemental materials for each course. Effective July 1, 2010. If no ISBN # is available, instead list author, title, publisher and copy right date. If neither is available, list TBD. IHEs are encouraged to provide students information on programs that enable them to obtain textbooks and materials at a lower cost. This information must also be made available to the college bookstore, along with the number of students enrolled in the related course or class; and the maximum student enrollment for such course or class.

Statute: 20 USC § 1015b Textbook Information (This section takes effect July 1, 2010, as provided by § 112(b) of Act Aug. 14, 2008)

(a) Purpose and intent.

The purpose of this section is to ensure that students have access to affordable course materials by decreasing costs to students and enhancing transparency and disclosure with respect to the selection, purchase, sale, and use of course materials. It is the intent of this section to encourage all of the involved parties, including faculty, students, administrators, institutions of higher education, bookstores, distributors, and publishers, to work together to identify ways to decrease the cost of college textbooks and supplemental materials for students while supporting the academic freedom of faculty members to select high quality course materials for students.

(b) Definitions. In this section:

(1) Bundle. The term "bundle" means one or more college textbooks or other supplemental materials that may be packaged together to be sold as course materials for one price.

- (2) College textbook. The term "college textbook" means a textbook or a set of textbooks, used for, or in conjunction with, a course in postsecondary education at an institution of higher education.
- (3) Course schedule. The term "course schedule" means a listing of the courses or classes offered by an institution of higher education for an academic period, as defined by the institution.
- (4) Custom textbook. The term "custom textbook"--
- (A) means a college textbook that is compiled by a publisher at the direction of a faculty member or other person or adopting entity in charge of selecting course materials at an institution of higher education; and
 - (B) may include, alone or in combination, items such as selections from original instructor materials, previously copyrighted publisher materials, copyrighted third-party works, and elements unique to a specific institution, such as commemorative editions.
- (5) Institution of higher education. The term "institution of higher education" has the meaning given the term in section 102 [[20 USCS § 1002](#)].
- (6) Integrated textbook. The term "integrated textbook" means a college textbook that is--
- (A) combined with materials developed by a third party and that, by third-party contractual agreement, may not be offered by publishers separately from the college textbook with which the materials are combined; or
 - (B) combined with other materials that are so interrelated with the content of the college textbook that the separation of the college textbook from the other materials would render the college textbook unusable for its intended purpose.
- (7) Publisher. The term "publisher" means a publisher of college textbooks or supplemental materials involved in or affecting interstate commerce.
- (8) Substantial content. The term "substantial content" means parts of a college textbook such as new chapters, new material covering additional eras of time, new themes, or new subject matter.
- (9) Supplemental material. The term "supplemental material" means educational material developed to accompany a college textbook that--
- (A) may include printed materials, computer disks, website access, and electronically distributed materials; and
 - (B) is not being used as a component of an integrated textbook.

(c) Publisher requirements.

- (1) College textbook pricing information. When a publisher provides a faculty member or other person or adopting entity in charge of selecting course materials at an institution of higher education receiving Federal financial assistance with information regarding a college textbook or supplemental material, the publisher shall include, with any such information and in writing (which may include electronic communications), the following:
- (A) The price at which the publisher would make the college textbook or supplemental material available to the bookstore on the campus of, or otherwise associated with, such institution of higher education and, if available, the price at which the publisher makes the college textbook or supplemental material available to the public.
 - (B) The copyright dates of the three previous editions of such college textbook, if any.
 - (C) A description of the substantial content revisions made between the current edition of the college textbook or supplemental material and the previous edition, if any.

(D) (i) Whether the college textbook or supplemental material is available in any other format, including paperback and unbound; and
(ii) for each other format of the college textbook or supplemental material, the price at which the publisher would make the college textbook or supplemental material in the other format available to the bookstore on the campus of, or otherwise associated with, such institution of higher education and, if available, the price at which the publisher makes such other format of the college textbook or supplemental material available to the public.

(2) Unbundling of college textbooks from supplemental materials. A publisher that sells a college textbook and any supplemental material accompanying such college textbook as a single bundle shall also make available the college textbook and each supplemental material as separate and unbundled items, each separately priced.

(3) Custom textbooks. To the maximum extent practicable, a publisher shall provide the information required under this subsection with respect to the development and provision of custom textbooks.

(d) Provision of ISBN college textbook information in course schedules. To the maximum extent practicable, each institution of higher education receiving Federal financial assistance shall--

(1) disclose, on the institution's Internet course schedule and in a manner of the institution's choosing, the International Standard Book Number and retail price information of required and recommended college textbooks and supplemental materials for each course listed in the institution's course schedule used for preregistration and registration purposes, except that--

(A) if the International Standard Book Number is not available for such college textbook or supplemental material, then the institution shall include in the Internet course schedule the author, title, publisher, and copyright date for such college textbook or supplemental material; and

(B) if the institution determines that the disclosure of the information described in this subsection is not practicable for a college textbook or supplemental material, then the institution shall so indicate by placing the designation "To Be Determined" in lieu of the information required under this subsection; and

(2) if applicable, include on the institution's written course schedule a notice that textbook information is available on the institution's Internet course schedule, and the Internet address for such schedule.

(e) Availability of information for college bookstores. An institution of higher education receiving Federal financial assistance shall make available to a college bookstore that is operated by, or in a contractual relationship or otherwise affiliated with, the institution, as soon as is practicable upon the request of such college bookstore, the most accurate information available regarding--

(1) the institution's course schedule for the subsequent academic period; and

(2) for each course or class offered by the institution for the subsequent academic period--

(A) the information required by subsection (d)(1) for each college textbook or supplemental material required or recommended for such course or class;

(B) the number of students enrolled in such course or class; and

(C) the maximum student enrollment for such course or class.

(f) Additional information. An institution disclosing the information required by subsection (d)(1) is encouraged to disseminate to students information regarding--

- (1) available institutional programs for renting textbooks or for purchasing used textbooks;
- (2) available institutional guaranteed textbook buy-back programs;
- (3) available institutional alternative content delivery programs; or
- (4) other available institutional cost-saving strategies.

(g) GAO report. Not later than July 1, 2013, the Comptroller General of the United States shall report to the authorizing committees on the implementation of this section by institutions of higher education, college bookstores, and publishers. The report shall particularly examine--

- (1) the availability of college textbook information on course schedules;
- (2) the provision of pricing information to faculty of institutions of higher education by publishers;
- (3) the use of bundled and unbundled material in the college textbook marketplace, including the adoption of unbundled materials by faculty and the use of integrated textbooks by publishers; and
- (4) the implementation of this section by institutions of higher education, including the costs and benefits to such institutions and to students.

(h) Rule of construction. Nothing in this section shall be construed to supercede the institutional autonomy or academic freedom of instructors involved in the selection of college textbooks, supplemental materials, and other classroom materials.

(i) No regulatory authority. The Secretary shall not promulgate regulations with respect to this section.

IV. HISTORY:

(Nov. 8, 1965, [P.L. 89-329](#), Title I, Part C, § 133, as added Aug. 14, 2008, [P.L. 110-315](#), Title I, § 112(a), [122 Stat. 3107](#).)

V. REGULATION

The statute says that the Secretary shall not promulgate regulations on this section.

VI. RESPONSIBLE FEDERAL AGENCIES

U.S. Department of Education

VII. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

None. This section is not mandatory. Rather, the law states the action by the IHE is *to the maximum extent practical*.

VIII. COMPLIANCE CHECKLIST (ASSIGN A POSITION)

- ✓ Make available to the college bookstore, upon request, the most accurate information regarding the course schedule for the next academic period and for each course offered, the information described above, the number of students enrolled in such course, and the maximum enrollment for each class.
- ✓ Ensure that the ISBN and retail price for required and recommend textbooks and other supplemental materials for each course are posted on the internet along with the Course Schedule. If no ISBN is available, then the IHE must instead list author, title, publisher and copyright date. If neither is available, list TBD.
- ✓ Work with the college bookstore to ensure the most accurate information on the ISBN, retail price for required and recommended textbooks and supplemental materials is available from the bookstore to the Registrar so the information can be posted on the Internet Course Schedule.
- ✓ Disseminate information about programs for renting textbooks, and info on buy-back programs, and also any available alternative content delivery programs or other institution cost-saving strategies.

IX. POSSIBLE RESPONSIBLE CAMPUS UNITS:

Registrar; Bookstore, Academic Units; Faculty, Webmaster

X. COMPLIANCE CALENDAR

July 1st, 2010

XI. SAMPLE POLICIES AND PROCEDURES

University System of Maryland:

<http://www.usmd.edu/regents/bylaws/SectionIII/III1000.html>

Appalachian State Textbook Rental Program:

<http://www.bookstore.appstate.edu/rental.html>

University of Maryland Intro to Astronomy:

<http://www.sis.umd.edu/bin/bookstore?term=200908&crs=ASTR100&sec=0101>

See also <http://www.sis.umd.edu/bin/soc?term=200908&crs=ASTR>

University of San Francisco Fall 2009 Arch 240 link to books:

<http://www.ccsfbookstore.com/credit/CourseMaterials.aspx>

XII. ADDITIONAL RESOURCES

NAICU HEA 101 page:

http://www.naicu.edu/special_initiatives/hea101/news_room/textbooks

AACRAO write up on Textbook Policies

http://www.aacrao.org/transcript/index.cfm?fuseaction=show_view&doc_id=4134

American Council on Education Textbook Forum

http://www.solutionsforourfuture.org/site/PageServer?pagename=heoa_home

Reporting and Disclosure Requirements for IHEs to Participate in Federal Student Aid Programs under Title IV of the Higher Education Act by Congressional Research Service

August 31, 2009

<http://openocrs.com/document/R40789/>

Transfer of Credit

I. DISCUSSION

The transfer-of-credit issue was a hard-fought battle throughout the six-year period leading to the enactment of the HEOA. The first bill that addressed the issue (introduced in 2003) would have: prescribed the basis on which institutions must award transfer credit; prohibited institutions from rejecting credits for transfer based solely on the type of accreditation of the sending institution; and added extensive reporting requirements on all credits accepted in transfer, broken down by four categories of accreditation.

Strenuous objections were raised on the basis that credit transfer decisions are academic matters that should be determined by an institution—not dictated by the federal government. Prior to enactment of HEAO, the only reference to transfer of credit in the statute was to authorize a study (that was never conducted).

In many cases where direct regulatory approaches have been rejected, Congress chooses to call for additional disclosures or reporting. This is the approach taken with regard to transfer of credit—with institutions now having to disclose their policies and any criteria used to make credit transfer decisions and to provide a list of institutions with which they have articulation agreements. This information must be posted on an institution's Web site.

II. COMPLIANCE AREA

Transfer of Credit

III. COMPLIANCE OBJECTIVES

The new law requires an institution to disclose its transfer of credit policies, including any criteria it uses to make credit transfer decisions and a list of institutions with which it has articulation agreements. These policies must be published “in an easily accessible manner” on the institution’s Web site.

As part of its regular review for accreditation or re-accreditation, the institution’s accreditor will be required to examine whether the institution has disclosed its policies, and the criteria underlying them.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

STATUTE

Section 485(h) [20 U.S.C. 1092]

(h) TRANSFER OF CREDIT POLICIES.—

(1) DISCLOSURE.—Each institution of higher education participating in any program under this title shall publicly disclose, in a readable and comprehensible manner, the transfer of credit policies established by the institution which shall include a statement of the institution’s current transfer of credit policies that includes, at a minimum--

(A) any established criteria the institution uses regarding the transfer of credit earned at another institution of higher education; and

(B) a list of institutions of higher education with which the institution has established an articulation agreement.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

(A) authorize the Secretary or the National Advisory Committee on Institutional Quality and Integrity to require particular policies, procedures, or practices by institutions of higher education with respect to transfer of credit;

(B) authorize an officer or employee of the Department to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any institution of higher education, or over any accrediting agency or association;

(C) limit the application of the General Education Provisions Act; or

(D) create any legally enforceable right on the part of a student to require an institution of higher education to accept a transfer of credit from another institution.

Section 496 [20 U.S.C. 1099b]

(c) OPERATING PROCEDURES REQUIRED.—No accrediting agency or association may be recognized by the Secretary as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this title, unless the agency or association—

* * *

(9) confirms, as a part of the agency’s or association’s review for accreditation or reaccreditation, that the institution has transfer of credit policies—

(A) that are publicly disclosed; and

(B) that include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education.

REGULATIONS

Proposed Regulations: Department of Education –
Institutional Eligibility under the Higher Education Act of 1965, as Amended, and the Secretary's Recognition of Accrediting Agencies

Federal Register/ Vol. 74, No. 150/ Thursday, August 6, 2009

[pp. 39498-39533]

Proposed Regulatory Language [p. 39527]

Sec. 602.24 Additional procedures certain institutional accreditors must have.

* * *

(e) Transfer of credit policies. The accrediting agency must confirm, as part of its review for initial accreditation or preaccreditation, or renewal of accreditation, that the institution has transfer of credit policies that--

(1) Are publicly disclosed in accordance with Sec. 668.43(x); and

(2) Include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education.

V. RESPONSIBLE FEDERAL AGENCIES

US Department of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

Failure to comply can result in fines of up to \$27,500 for each violation, (see **34 CFR § 668.84**) or loss of Title IV eligibility.

In addition, an institution could be sanctioned by its accreditation agency during its accreditation review.

VII. COMPLIANCE CHECKLIST

- ✓ **Develop a transfer of credit policy**, if the institution does not already have one, assuring that the policy—
 - is written in a “readable and comprehensible manner” and
 - includes any established criteria used by the institution.
(**Section 485(h)(1)(A)**)
- ✓ **Prepare a list of institutions with which your institution has articulation agreements.** (**Section 485(h)(1)(B)**)
- ✓ **Post the policy on your institution’s website, assuring the information is “easily accessible.”** (**Section 132(i)(V)(iv)**) This posting must also include the list of institutions with which your institution has articulation agreements.
- ✓ **Include in materials prepared for an accreditation review** information demonstrating that the institution’s policy as described in Section 485(h) is publicly disclosed on the institution’s website. (**Sec. 496(c)(9)**)

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

Academic affairs; registrar; Web master; institutional research

IX. COMPLIANCE CALENDAR

This provision went into effect when the bill was signed into law on August 14, 2008. As part of the law's consumer information requirements (**Section 132(i)(V)(iv)**), these policies were to have been posted in an "easily accessible" manner on the institution's Web site by August 14, 2009.

X. SAMPLE POLICIES AND PROCEDURES

Transfer of Credit Policy – Goucher College

<http://www.goucher.edu/documents/Records/TRANSFER%20OF%20CREDIT%20POLICY.pdf>

Transfer of Credit Policy – Ohio State University

http://www.ureg.ohio-state.edu/ourweb/Transfer_Credit/tcpolicy.html

Transfer of Credit Policy – Bates College

<http://www.bates.edu/x34721.xml>

Transfer of Credit Policy – University of Alabama

http://registrar.ua.edu/transfer_policy.html

Transfer of Credit Policy – Bethune-Cookman University

<http://www.cookman.edu/admissions/transferstudents/index.html>

Articulation Agreements – University of Southern California

<https://camel2.usc.edu/articagmnt/artic.aspx>

Articulation Agreements – Richard Bland College of the College of William & Mary

<http://www.rbc.edu/transferagreements.html>

XI. ADDITIONAL RESOURCES

NAICU HEA 101 Quick Guide

http://www.naicu.edu/special_initiatives/heaguide/news_room/transfer-of-credit

College Navigator

HEOA provides that the Department of Education's College Navigator site include a link to an institution's website that provides, "in an easily accessible manner", the institution's transfer of credit policies. <http://nces.ed.gov/COLLEGENAVIGATOR/>

NACUANOTE by NACUA member Kate Tromble. This note summarizes the variety of new reporting requirements, with effective dates, and contains links to the text of the law.

September 16, 2008 <http://counsel.cua.edu/fedlaw/HEOA.cfm>

Veterans Readmissions

I. DISCUSSION

HEOA provisions related to veterans' readmission represent one of several congressional efforts to assist individuals who have performed military service. The 9/11 tragedy and subsequent military action in Iraq and Afghanistan have brought veterans' issues to the forefront to an extent not seen in many years. Congress has sought in many different ways to demonstrate commitment to and support for those who have served.

The readmission provisions also offer an illustration of the way in which the length and specificity of requirements that individuals and institutions are expected to meet grows as the policy established in law is implemented in regulation.

These provisions were initially included in the HEA reauthorization bill (H.R. 4137) approved by the House of Representatives in February 2008. They were short—comprising a single subparagraph as follows:

“(C) READMISSION REQUIREMENTS FOR SERVICEMEMBERS.--

Any institution of higher education that requires any student--

“(i) who is a member of the Armed Forces of the United States, or a member of such Armed Forces in a retired status, including members of the National Guard or other reserve component,

“(ii) who is on active duty, or is called or ordered to active duty (as defined in section 481(d)), and

“(iii) whose attendance at such institution is interrupted by such active duty, to apply for readmission to such institution of higher education after the conclusion of such active duty shall submit to the Secretary a statement justifying such requirement.”

Conference deliberations between the House and Senate produced the more detailed language of **20 U.S.C. 1091c** (see source material in section IV below). The version approved by the Senate in July 2007 did not include any provisions relating to veterans' readmission. The differences between the House and Senate versions were resolved as described in the conference report accompanying the final bill:

“The Senate recedes with an amendment to establish a standard process for students who are required to leave an institution because they have been called to active duty to re-enroll at the institution in the same academic standing the student had before leaving the institution. Such process is modeled after the process established for servicemembers to return to employment after serving on active duty in the Uniformed Services Employment and Reemployment Rights Act.”

The regulations proposed by the Department of Education to implement these provisions (see source material in section IV below, as well as the preamble language included in section XI) offer additional specificity in terms of what is expected of institutions in complying with the new HEOA requirements.

II. COMPLIANCE AREA

Veterans Readmission

III. COMPLIANCE OBJECTIVES

The law includes a new section requiring institutions to readmit veterans who left in order to perform military service. The veteran is to be readmitted with the same academic status he or she had when last in attendance at the institution. In most cases, the length of the absence from the institution cannot exceed five years. The law includes exceptions for veterans receiving a dishonorable or bad conduct discharge, or who are sentenced in a court-martial.

IV. PRIMARY SOURCE(S) OF COMPLIANCE OBLIGATION(S)

Statute:

SEC. 484C. [20 U.S.C. 1091c] READMISSION REQUIREMENTS FOR SERVICEMEMBERS.

Regulations

Department of Education - General and Non-Loan Programmatic Issues; Proposed Rule - Federal Register, August 21, 2009, pp. 42379-42463.

<http://frwebgate3.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=2855538949+0+2+0&WAIAction=retrieve>

Proposed regulation will be at **34 CFR § 668.18**.
pp. 42430-2.

V. RESPONSIBLE FEDERAL AGENCIES

US Department of Education

VI. ENFORCEMENT AND RISK EXPOSURE/SANCTIONS

Failure to comply can result in fines of up to \$27,500 for each violation, (see **34 CFR § 668.84**) or loss of Title IV eligibility.

VII. COMPLIANCE CHECKLIST(S) IDENTIFYING KEY COMPLIANCE OBLIGATION(S) (WITH CITATION TO UNDERLYING STATUTE, REGULATION OR CASE) AND OTHER COMPLIANCE TOOLS

NOTE: This list is based on the assumption that final regulations will be consistent with the proposed regulations issued on August 21, 2009. These requirements apply to any institution where the eligible veteran began attendance—even if the institution has had a change of ownership in the intervening time. These provisions supersede any State law or other matter that reduces, limits, or eliminates any right or benefit provided under these provisions.

✓ **Develop or revise your institution's admissions policies and procedures** related to readmissions of veterans to assure consistency with new HEAO requirements. An institution may not deny readmission on the basis of the military service of the student. (In most cases, the student must apply for readmission within 5 years of completion of military service) These policies and procedures must provide that:

- The eligible veteran is promptly readmitted—meaning that—with some limited exceptions—he/she is admitted to the next class or classes beginning after he/she has indicated the intent to re-enroll
- The eligible veteran is admitted with the same academic status—meaning the same program (or most similar one, if same program does not exist), same enrollment status, same number of credits, and same satisfactory academic status. In addition, during the first academic year, the student is to be assessed the same charges as were in effect during the academic year he/she left the program. If the student paid for equipment during his/her previous enrollment, the student may not be charged for equipment required in lieu of that previously purchased.

[Proposed 34 CFR § 668.18(a)]

✓ **Develop procedures for addressing institutional determinations that a student is not prepared to be readmitted with the same academic status.** These procedures must include reasonable efforts by the institution to help the student become prepared—including the provision of free refresher courses. An institution is not required to readmit the veteran if it can demonstrate through a preponderance of the evidence that the student is not prepared to resume the program or will not be able to complete it. **[Proposed 34 CFR § 668.18(a)(2)(iv)]**

✓ **Designate one or more offices at the institution that the veteran may contact to provide notice of his/her being called into service or notice of his/her intent to return to the institution.** The student: may not be required to provide information regarding his/her being called into service in any particular format; may not be subject to any requirement regarding the timeliness of the notice; and does not need to express an intent to return to the institution.

[Proposed 34 CFR § 668.18(c)(2)]

✓ **Develop guidelines regarding the documentation to be provided by the veteran seeking readmission.** Examples are provided in proposed regulations. Note that an institution may not delay or avoid readmission of a student by requiring documentation that does not exist or that is not readily available at the time of readmission. **[Proposed 34 CFR § 668.18(g)]**

VIII. POSSIBLE RESPONSIBLE CAMPUS UNITS

Admissions; registrar; veterans affairs/services office.

IX. COMPLIANCE CALENDAR

This provision went into effect when the bill was signed into law on August 14, 2008.

X. SAMPLE POLICIES AND PROCEDURES

Note: This is a new HEA requirement, so policies and procedures reflecting all of the Department of Education’s requirement cannot be developed until final regulations are issued. The Goucher College policy cited below was issued following enactment of HEOA.

Goucher College policy

http://www.goucher.edu/documents/Records/Veterans'_Readmission_Policy.pdf

XI. ADDITIONAL RESOURCES

NAICU HEA 101 Quick Guide

http://www.naicu.edu/special_initiatives/heaguide/news_room/veterans-readmission

US Dept. of Education Letter December 2008, summarizing HEOA

<http://ifap.ed.gov/dpclatters/attachments/GEN0812FP0810AttachHEOADCL.pdf>

See pages 63-5 for discussion of veterans' readmission provisions.

Conference report accompanying H.R. 4137—Higher Education Opportunity Act (House Report 110-803, July 30, 2008, p. 547)

“Section 487. Readmission requirements for service members

“The House bill requires any institution of higher education that requires a student, who is a member of the Armed Forces or a member of the Armed Forces in retired status, whose attendance is interrupted by a call or order to active duty to subsequently reapply for readmission at the time of the conclusion of active duty to justify this requirement in writing to the Secretary.

“The Senate amendment contains no similar provision.

“The Senate recedes with an amendment to establish a standard process for students who are required to leave an institution because they have been called to active duty to re-enroll at the institution in the same academic standing the student had before leaving the institution. Such process is modeled after the process established for servicemembers to return to employment after serving on active duty in the Uniformed Services Employment and Reemployment Rights Act.”

Uniformed Services Employment and Reemployment Rights Act (USERRA)

The Department of Education used the regulations governing the Uniformed Services Employment and Reemployment Rights Act (USERRA) [38 U.S.C. §4301-4335] [Chapter 43, Part III, Title 38](#) as the model for the regulations governing veterans readmissions. The USERRA regulations were published in the *Federal Register* on December 12, 2005. Volume 70, Number 242, Pages 75245-75313 [\[PDF Version\]](#).

Additional information about USERRA may be found on the Department of Labor's website at: <http://www.dol.gov/elaws/userra.htm>.

Preamble to Proposed Regulations (pp. 42385-8)

The preamble to the proposed regulations explains the reasoning of the Department of Education in putting forward detailed requirements on institutions with respect to the new veterans' readmission requirements. For the most part, these requirements are intended to parallel those of USERRA.

HEA Conference Report Update

INTEROFFICE MEMORANDUM

TO: Peg O'Donnell
FROM: Robert Law
SUBJECT: HEA CONFERENCE REPORT
DATE: JULY 31, 2008

§ 1098. Advisory Committee on Student Financial Assistance

(a) Establishment and purpose

(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the "Advisory Committee") which shall provide advice and counsel to the authorizing committees and to the Secretary on student financial aid matters.

(2) The purpose of the Advisory Committee is—

(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

(B) to provide technical expertise with regard to systems of needs analysis and application forms;

(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students; and

(D) to provide knowledge and understanding of early intervention programs, and to make recommendations that will result in early awareness by low- and moderate-income students and families—

(i) of their eligibility for assistance under this title; and

(ii) to the extent practicable, of their eligibility for other forms of State and institutional need-based student assistance;

(E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions of higher education, and private entities to increase the awareness and the total amount of need-based student assistance available to low- and moderate-income students; and

(F) to collect information on Federal regulations, and on the impact of Federal regulations on student financial assistance and on the cost of receiving a postsecondary education, and to make recommendations to help streamline the regulations for institutions of higher education from all sectors.

(b) Independence of Advisory Committee

In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations, expenditures and staffing levels, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be

subject to the usual and customary Federal audit procedures. Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary. The recommendations of the Committee shall not be subject to review or approval by any officer in the executive branch, but may be submitted to the Secretary for comment prior to submission to the authorizing committees in accordance with subsection (f) of this section. The Secretary's authority to terminate advisory committees of the Department pursuant to section 1233g (b) [\(1\)](#) of this title ceased to be effective on June 23, 1983.

(c) Membership

(1) The Advisory Committee shall consist of 11 members appointed as follows:

(A) Four members shall be appointed by the President pro tempore of the Senate, of whom two members shall be appointed from recommendations by the Majority Leader of the Senate, and two members shall be appointed from recommendations by the Minority Leader of the Senate.

(B) Four members shall be appointed by the Speaker of the House of Representatives, of whom two members shall be appointed from recommendations by the Majority Leader of the House of Representatives, and two members shall be appointed from recommendations by the Minority Leader of the House of Representatives.

(C) Three members shall be appointed by the Secretary, of whom at least one member shall be a student.

(2) Each member of the Advisory Committee, with the exception of a student member, shall be appointed on the basis of technical qualifications, professional experience, and demonstrated knowledge in the fields of higher education, student financial aid, financing post-secondary education, and the operations and financing of student loan guarantee agencies.

(3) The appointment of a member under subparagraph (A) or (B) of paragraph (1) shall be effective upon publication of such appointment in the Congressional Record.

(d) Functions of the Committee

The Advisory Committee shall—

(1) develop, review, and comment annually upon the system of needs analysis established under part E of this subchapter;

(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this subchapter and part [C](#) of subchapter [I](#) of chapter [34](#) of title [42](#) and assist the Department of Education in improving the delivery of student aid;

(4) assess the impact of legislative and administrative policy proposals;

(5) review and comment upon, prior to promulgation, all regulations affecting programs under this subchapter and part [C](#) of subchapter [I](#) of chapter [34](#) of title [42](#), including proposed regulations;

(6) recommend to the authorizing committees and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met;

(7) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs;

(8) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs;

(9) provide an annual report to the authorizing committees that provides analyses and policy recommendations regarding—

- (A) the adequacy of need-based grant aid for low- and moderate-income students; and
- (B) the postsecondary enrollment and graduation rates of low- and moderate-income students

(10) develop and maintain an information clearinghouse to help institutions of higher education understand the regulatory impact of the Federal Government on institutions of higher education from all sectors, in order to raise awareness of institutional legal obligations and provide information to improve compliance with, and to reduce the duplication and inefficiency of, Federal regulations; and

(11) make special efforts to advise Members of Congress and such Members' staff of the findings and recommendations made pursuant to this paragraph.

(e) Operations of the Committee

(1) Each member of the Advisory Committee shall be appointed for a term of 4 years, except that, of the members first appointed—

- (A) 4 shall be appointed for a term of 1 year;
- (B) 4 shall be appointed for a term of 2 years; and
- (C) 3 shall be appointed for a term of 3 years,

as designated at the time of appointment by the Secretary.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee serving on the date of enactment of the Higher Education Opportunity Act shall be permitted to serve the duration of the member's term, regardless of whether the member was previously appointed to more than one term.

(3) No officers or full-time employees of the Federal Government shall serve as members of the Advisory Committee.

(4) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

(5) Six members of the Advisory Committee shall constitute a quorum.

(6) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

(f) Submission to Department for comment

The Advisory Committee may submit its proposed recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

(g) Compensation and expenses

Members of the Advisory Committee may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section [5703](#) of title [5](#), for persons in the Government service employed intermittently.

(h) Personnel and resources

(1) The Advisory Committee may appoint such personnel as may be determined necessary by the Chairman without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule. The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the

provisions of title 5. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals.

(2) In carrying out its duties under this chapter, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3)

(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

(B) The Advisory Committee may enter into contracts for the acquisition of information, suggestions, estimates, and statistics for the purpose of this section.

(4) The Advisory Committee is authorized to obtain the services of experts and consultants without regard to section [3109](#) of title [5](#) and to set pay in accordance with such section.

(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(i) Availability of funds

In each fiscal year not less than \$800,000, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.

(j) Special analyses and activities

The Advisory Committee shall—

(1) monitor and evaluate the modernization of student financial aid systems and delivery processes and simplifications, including recommendations for improvement;

(2) assess the adequacy of current methods for disseminating information about programs under this subchapter and part [C](#) of subchapter [I](#) of chapter [34](#) of title [42](#) and recommend improvements, as appropriate, regarding early needs assessment and information for first-year secondary school students;

(3) assess and make recommendations concerning the feasibility and degree of use of appropriate technology in the application for, and delivery and management of, financial assistance under this subchapter and part [C](#) of subchapter [I](#) of chapter [34](#) of title [42](#), as well as policies that promote use of such technology to reduce cost and enhance service and program integrity, including electronic application and reapplication, just-in-time delivery of funds, reporting of disbursements and reconciliation;

(4) conduct a review and analysis of regulations in accordance with subsection (l); and

(5) conduct a study in accordance with subsection (m).

(k) Term of Committee

Notwithstanding the sunset and charter provisions of the Federal Advisory Committee Act or any other statute or regulation, the Advisory Committee shall be authorized until October 1, 2014.

(l) Review and Analysis of Regulations

(1) Recommendations—The Advisory Committee shall make recommendations to the Secretary and the authorizing committees for consideration of future legislative action regarding redundant or outdated regulations consistent with the Secretary’s requirements under section 498B.

(2) Review and Analysis of Regulations

(A) Review of Current Regulations—To meet the requirements of subsection (d)(10), the Advisory Committee shall conduct a review and analysis of the regulations issued by Federal agencies that are in effect at the time of the review and that apply to the operations or activities of institutions of higher education from all sectors. The review and analysis may include a determination of whether the regulation is duplicative, is no longer necessary, is inconsistent with other Federal requirements, or is overly burdensome. In conducting the review, the Advisory Committee shall pay specific attention to evaluating ways in which regulations under this title affecting institutions of higher education (other than institutions described in section 102(a)(1)(C)), that have received in each of the two most recent award years prior to the date of enactment of Higher Education Opportunity Act less than \$200,000 in funds through this title, may be improved, streamlined, or eliminated.

(B) Review and Collection of Future Regulations—The Advisory Committee shall—

- (i) monitor all Federal regulations, including notices of proposed rulemaking, for their impact or potential impact on higher education; and
- (ii) provide a succinct description of each regulation or proposed regulation that is generally relevant to institutions of higher education from all sectors.

(C) Maintenance of Public Website—The Advisory Committee shall develop and maintain an easy to use, searchable, and regularly updated website that—

- (i) provides information collected in subparagraph (B);
- (ii) provides an area for the experts and members of the public to provide recommendations for ways in which the regulations may be streamlined; and
- (iii) publishes the study conducted by the National Research Council of the National Academy of Sciences under section 1106 if the Higher Education Opportunity Act.

(3) Consultation

(A) In General—In carrying out the review, analysis, and development of the website required under paragraph (2), the Advisory Committee shall consult with the Secretary, other Federal agencies, relevant representatives of institutions of higher education, individuals who have expertise with Federal regulations, and the review panels described in subparagraph (B)

(B) Review Panels—The Advisory Committee shall convene not less than two review panels of representatives of the groups involved in higher education, including individuals involved in student financial assistance programs under this title, who have experience and expertise in the regulations issued by the Federal Government that affect all sectors of higher education, in order to review the regulations and to provide recommendations to the Advisory Committee with respect to the review and analysis under paragraph (2). The panels shall be made up of experts in areas such as the operations of the financial assistance programs, the institutional eligibility requirements for the financial assistance programs, regulations not directly related to the operations or the institutional eligibility requirements of the financial assistance programs, and regulations for dissemination of information to students about the financial assistance programs.

(4) Periodic Updates to the Authorizing Committees

The Advisory Committee shall—

(A) submit, not later than two years after the completion of the negotiated rulemaking process required under section 492 resulting from the amendments to this Act made by the Higher Education Opportunity Act, a report to the authorizing committees and the

Secretary detailing the review panels' findings and recommendations with respect to the review of regulations; and

- (B)** provide periodic updates to the authorizing committees regarding—
 - (i) the impact of all Federal regulations on all sectors of higher education; and
 - (ii) suggestions provided through the website for streamlining or eliminating duplicative regulations.

(5) Additional Support—The Secretary and the Inspector General of the Department shall provide such assistance and resources to the Advisory Committee as the Secretary and Inspector General determine are necessary to conduct the review and analysis required by this subsection.

(m) Study of Innovative Pathways to Baccalaureate Degree Attainment

(1) Study Required—The Advisory Committee shall conduct a study of the feasibility of increasing baccalaureate degree attainment rates by reducing the costs and financial barriers to attaining a baccalaureate degree through innovative programs.

(2) Scope of Study—The Advisory Committee shall examine new and existing programs that promote baccalaureate degree attainment through innovative ways, such as dual or concurrent enrollment programs, changes made to the Federal Pell Grant program, simplification of the needs analysis process, compressed or modular scheduling, articulation agreements, and programs that allow two-year institutions of higher education to offer baccalaureate degrees.

(3) Required Aspects of the Study—In performing the study described in this subsection, the Advisory Committee shall examine the following aspects of such innovative programs:

- (A)** The impact of such programs on baccalaureate attainment rates.
- (B)** The degree to which a student's total cost of attaining a baccalaureate degree can be reduced by such programs.
- (C)** The ways in which low- and moderate-income students can be specifically targeted by such programs.
- (D)** The ways in which nontraditional students can be specifically targeted by such programs.
- (E)** The cost-effectiveness for the Federal Government, States, and institutions of higher education to implement such programs.

(4) Consultation

(A) In General—In performing the study described in this subsection, the Advisory Committee shall consult with a broad range of interested parties in higher education, including parents, students, appropriate representatives of secondary schools and institutions of higher education, appropriate State administrators, administrators of dual or concurrent enrollment programs, and appropriate Department officials.

(B) Consultation with the Authorizing Committees—The Advisory Committee shall consult on a regular basis with the authorizing committees in carrying out the study required by this subsection.

(5) Reports to Authorizing Committees

(A) Interim Report—The Advisory Committee shall prepare and submit to the authorizing committees and the Secretary an interim report, not later than one year after the date of enactment of the Higher Education Opportunity Act, describing the progress made in conducting the study required by this subsection and any preliminary findings on the topics identified under paragraph (2).

(B) Final Report—The Advisory Committee shall, not later than three years after the date of enactment of the Higher Education Opportunity Act, prepare and submit to the authorizing committees and the Secretary a final report on the study, including recommendations for legislative, regulatory, and administrative changes based on findings related to the topics identified under paragraph (2).



R40789

Reporting and Disclosure Requirements for Institutions of Higher Education to Participate in Federal Student Aid Programs Under Title IV of the Higher Education Act

August 31, 2009

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Summary

The Higher Education Act of 1965 (HEA; P.L. 89-329), as amended, authorizes a broad array of federal student aid programs that assist students and their families with paying for or financing the costs of obtaining a postsecondary education. These federal student aid programs are authorized under Title IV of the HEA. Requirements applicable to the administration of Title IV federal student aid programs are specified in Title I of the HEA, as well as in Title IV. The HEA also authorizes many other types of programs, including programs that make federal aid and support available to institutions of higher education (IHEs). The Department of Education administers programs authorized under the HEA. In 2008, the HEA was reauthorized under the Higher Education Opportunity Act (HEOA; P.L. 110-315); and in 2009 technical amendments to the HEA were made under P.L. 111-39. Institutions that participate in one or more Title IV programs, or that seek to begin participating in these programs, are subject to a wide range of requirements under the act to report or disclose information to the Secretary of Education, to students, to the public, or to other entities. As part of the amendments made to the HEA, the HEOA added numerous additional requirements for the reporting and disclosure of information, many of which are applicable to IHEs. This has resulted in a sizable expansion of the reporting and disclosure requirements with which IHEs must comply as a condition of their participation in HEA, Title IV federal student aid programs. This report responds to requests by Members of Congress for an in-depth examination of the reporting and disclosure requirements applicable to IHEs that participate in Title IV federal student aid programs. Specifically, it identifies and describes the reporting and disclosure requirements specified under Title I and Title IV of the HEA that applied to institutions prior to the enactment of the HEOA and those that were amended or newly established by the HEOA. It has been prepared to serve as a resource to assist Members of Congress and their staff in overseeing the Department of Education's implementation of amendments to the HEA made by the HEOA. It is designed to be comprehensive, though not necessarily exhaustive, in scope. It will not be updated.

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