## **DEPARTMENT OF EDUCATION**

## 34 CFR Part 668 RIN 1840-AC14

## **Student Assistance General Provisions**

**AGENCY:** Department of Education. **ACTION:** Final regulations.

**SUMMARY:** The Secretary amends the Student Assistance General Provisions regulations. These amendments are necessary to implement a new requirement in the Higher Education Act of 1965, as amended (HEA), added by the Improving America's Schools Act of 1994 (IASA), Pub. L. 103-382. The IASA provisions, titled the "Equity in Athletics Disclosure Act" (EADA). require certain co-educational institutions of higher education to prepare annually—and make available to students, potential students, and the public-a report on participation rates, financial support, and other information on men's and women's intercollegiate athletic programs. These regulations implement these new statutory requirements.

effective date: These regulations take effect on July 1, 1996. However, affected parties do not have to comply with the information collection requirements in § 668.41 and § 668.48 until the Department of Education publishes in the Federal Register the control numbers assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control numbers notifies the public that OMB has approved these information requirements under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Mr. David Lorenzo or Ms. Paula Husselmann, U.S. Department of Education, 600 Independence Avenue, SW., ROB–3, room 3045, Washington, DC 20202–5346. Telephone: (202) 708–7888. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Student Assistance General Provisions regulations (34 CFR part 668) apply to all institutions that participate in the title IV, HEA programs. The changes in these regulations are necessary to implement changes to the HEA made by the Equity in Athletics Disclosure Act (EADA), which was included in the Improving America's Schools Act of 1994 (IASA), Pub. L. 103–382, enacted

on October 20, 1994. The EADA requires that certain institutions of higher education disclose annually—to students, potential students, and the public—financial, participation, and other information concerning the institution's women's and men's intercollegiate athletic programs. The EADA is a "sunshine" law designed to make "prospective students and prospective student athletes...aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students" (IASA, section 360B(b)(7)).

The EADA does not require that this information be submitted to the Federal Government. The Secretary may, however, request that institutions of higher education that are subject to the EADA provide a copy of the report in order to verify compliance with these requirements. The EADA does require that all institutions subject to its provisions make the information available to students, potential students, and the public.

## Background

On February 3, 1995, the Secretary published a Notice of Proposed Rulemaking (NPRM) for part 668 in the Federal Register (60 FR 6940). The NPRM included a discussion of the major issues surrounding the proposed changes which will not be repeated here. The following list summarizes those issues and identifies the pages of the preamble to the NPRM on which the discussion of those issues can be found:

The Secretary proposed definitions of the terms "intercollegiate athletic program" and "varsity team" and solicited comments as to whether type or level of financial support should be part of the definition of varsity team (page 6940).

The Secretary solicited comments on the date for schools to make available the annual report of data beyond the statutory date of October 1, 1996 for the first report (page 6940).

The Secretary requested comments on what definition of "academic year" and "undergraduate student" should be employed in these regulations (pages 6940–6941).

The Secretary requested comments on whether certain categories of athletes, such as "redshirts," should be counted as participants on a team (page 6941).

The Secretary proposed a list of items to be included under the category of "operating expenses," interpreted the statute to require the reporting of expenses incurred for both home and away contests, and interpreted the statute to require the reporting of expenses in categories specifically listed

in the law. The Secretary also solicited comments as to what items are included under the statutory categories (page 6941).

The Secretary interpreted the statute to require institutions to disclose two total amounts of athletically-related aid, one for male athletes and one for female athletes. The Secretary also proposed that the definition of athletically-related student aid for these provisions be the same as that provided in section 485(e)(8) of the HEA, and solicited comments on whether to apply this definition to particular categories of students (page 6941).

The Secretary interpreted the statute to require institutions to calculate a ratio of the total amount of athletic aid awarded to men to the total amount of athletic aid awarded to women (page 6941).

The Secretary interpreted the statute to require institutions to report the total expenditures used for recruiting male athletes, and the total expenditures used for recruiting female athletes. The Secretary also solicited comment on what items should be included as "expenditures on recruiting" (page 6941).

The Secretary interpreted the statute to require institutions to report the total annual revenues for men's teams and the total annual revenue for women's teams, and interpreted "total annual revenues" to mean "annual gross income." The Secretary also requested comments on whether the definition of "expenses" here should follow that in section 487 of the HEA, and whether the definition of "total annual revenues" should follow the definition in 34 CFR 668.14 (pages 6941–6942).

The Secretary interpreted the statute to require a report of coaches' salaries on average across all men's sports, and on average across all women's sports, for both head coaches and assistant coaches. The Secretary also requested comments on a definition of "salary," and whether the salary of a volunteer coach should be listed as zero for averaging purposes (page 6942).

The Secretary requested comments on how information on co-educational teams could be reported with a minimum of burden (page 6942).

The Secretary interpreted the statute to require reports to be based on actual expenditures, not budgeted expenditures (page 6942).

The Secretary requested comments on how schools should report when their academic year differs from their fiscal year (page 6942).

The Secretary requested comments on whether the provision of substantially comparable data to an athletic