conference satisfies the requirements of the statute (page 6942).

The Secretary requested comments and suggestions on possible formats for the report, and whether a mandatory format was necessary (pages 6942– 6943).

The Secretary requested comments and suggestions regarding the availability and accessibility of the report (page 6943).

The following discussion describes the significant changes since publication of the NPRM. These topics will be discussed in the order in which they appear in the text of the regulations.

Section 668.41—Reporting and Disclosure

The Secretary has decided not to regulate where this report is to be made available to students and the public, nor the specific publications in which institutions must publish notice of its availability. The Secretary has added a regulatory requirement that is consistent with the statute in requiring institutions to make the report available in easily accessible places and in a timely manner. The discussion below provides guidance as to ways in which this requirement may be satisfied.

With regard to the date for reporting the information listed in the statute, the Secretary has decided to change the reporting date to October 15 for years subsequent to 1996.

Section 668.48—Report on Athletic Program Participation Rates and Financial Support Data

The Secretary does not provide any exemptions to institutions from reporting the data listed in the statute. The Secretary does, however, permit flexibility where appropriate in the manner in which institutions may report certain data elements.

The Secretary provides in the regulations definitions of the terms "reporting year" and "undergraduate student" that allow institutions, within certain limits, to use their customary definitions of those terms. The Secretary also defines in the regulations the terms "athletically-related student aid," "institutional salary," "recruiting expenses," and "varsity team." The Secretary also includes an explanatory note discussing the term "participant."

The Secretary adds a regulatory requirement for an institution to disclose as part of each annual report the list of recruiting expenses on which it bases the figures it discloses as expenditures on recruiting.

The Secretary interprets the statute to require institutions to report an average

of those salaries the institution pays to coaches as compensation for coaching. The Secretary also interprets the statute to require institutions to report any team expenses the institution directly funds.

The Secretary provides as an appendix to these regulations an optional form institutions may use to report the data required in the regulations.

Preparation of Final Regulations

The Secretary has formulated these regulations in accordance with Executive Order 12866, the Administration's initiative on regulatory reinvention, and the Department's own principles for regulating. The Secretary's goal is to regulate only when necessary, and then as flexibly as possible, while implementing such rules as are essential to advance the purpose of the statute. The Secretary has also placed renewed emphasis on minimizing burden on institutions, and on making regulations easy to read and understand.

The Department expects good faith efforts from institutions, and has tried wherever possible to provide guidance regarding reasonable ways of complying with the statute rather than promulgating overly prescriptive rules. The Department relies upon its experience with the community as to the level of guidance necessary to ensure compliance and full knowledge of the Department's expectations. However, the Department also recognizes that any new reporting requirements, such as those contained in this statute, may produce unforeseen questions, or problems of compliance and interpretation. In the event that such questions or problems arise, the Department may revisit these regulations or provide further guidance to resolve those matters.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 26 parties, including representatives from large and small schools, athletic associations, university associations, student advocacy groups, and right-to-know advocates, submitted comments on the proposed regulations. A summary of those comments, and an analysis of changes in the regulations since the publication of the NPRM, follows.

Substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

General

Comments: One commenter complimented the Department on the clarity of the proposed regulations and the clarification they brought to the statute.

One commenter argued that the statute was based on misconceptions about interest in the kinds of data most institutions would supply and on general interest in comparing institutions' athletic programs, and that the Secretary should consider these caveats when determining what level of cost is justified to provide these data.

One commenter noted that the proposed regulations contain no specific provisions governing the consequences of non-compliance, and urged the Department to detail those provisions, including a reference to the Higher Education Act of 1965, as amended (HEA), if that is the source of sanctions.

Discussion: The Secretary wishes to emphasize that care was taken, consistent with the purpose and terms of the statute, to respond to concerns and minimize the burdens associated with reporting these data.

The Secretary notes that these regulations implement an amendment to the HEA, and thus form a part of the regulations governing an institution's participation in the title IV, HEA programs. Institutions that do not comply with these reporting requirements are subject to the same penalties applicable to other regulatory violations, namely, possible fines, limitation, suspension, or termination of participation in the title IV, HEA programs. The regulations governing these possible sanctions are located in 34 CFR Part 668, Subpart G.

Changes: None.

Section 668.41 Reporting and Disclosure

Comments: Several commenters proposed that reports be available for examination at an accessible office during normal business hours. One commenter suggested that the information should be made available on request. Another commenter suggested that the information be available at the institution's library. Still another commenter recommended that the information be available in all admissions, financial aid, and intercollegiate athletic offices, as well as available on request. Several commenters suggested that the information, in addition to being generally available, also be supplied automatically to students who have been offered an athletic scholarship and to their parents, just as the National