

Collegiate Athletic Association (NCAA) now requires schools to disclose to those parties the institution's retention rate. One commenter inquired whether the information should be supplied to the Department, and if so, to whom it should be sent.

Discussion: The Secretary agrees that the statute requires only that the report be available on request. To allow institutions flexibility in complying with this statutory requirement, the Secretary will not regulate where the report be made available. However, the Secretary believes that the intent of the statute is for institutions to make the annual reports easily accessible, and adds a regulatory requirement to that effect. The Secretary believes that an institution would fulfill this obligation if, for example, it made copies of this report available in such places as intercollegiate athletic offices, admissions offices, and libraries. An institution may also fulfill this obligation by electronic means, for example, by providing a copy to every student in his or her electronic mailbox.

As noted in the February 3, 1995 Notice of Proposed Rulemaking, 60 FR 6940, institutions are not required to submit this report to the Secretary. However, the Secretary may request that the report be provided during a program review or compliance audit, for example, in order to verify compliance with these regulations.

Changes: Section 668.41(e)(1)(i) has been changed to include a requirement that institutions make the information contained in this report easily accessible to students, prospective students, and the public, and that an institution make the information available in a timely fashion when requested.

Comments: Several commenters proposed that notice of the report's availability be published in at least one publication distributed once a year. One commenter advised that the campus security report model for giving notice be adopted. Several commenters believed notice should be published in the institution's catalogue and registration packets, and one commenter added financial aid and intercollegiate athletic department publications to that list.

Discussion: The statute simply requires institutions to inform students of their right to request the information contained in the report. In order to provide flexibility to institutions and make it easier for them to meet this requirement, the Secretary will not regulate the specifics of notification.

The Secretary agrees that an appropriate way to meet this requirement would be to publish a

notice at least once a year in a widely-distributed institutional publication. The Secretary also agrees that publishing a notice in an institution's catalogue, registration materials, or relevant intercollegiate athletic department publications distributed to all students, distributing a separate notice to all students, or distributing the report directly to all students would each be an appropriate step toward meeting this requirement.

Changes: None.

Comments: Several commenters supported allowing institutions to charge the general public a reasonable fee for copies of the report as a means of reducing costs to the institution.

Discussion: The Secretary emphasizes that charging such a fee to students, potential students, parents, or coaches would violate the intent of the statute. However, upon reviewing the comments and the statute, the Secretary agrees that the statute does not prohibit institutions from charging the general public (persons other than those listed above) a fee to cover copying expenses only.

Changes: None.

Comments: Several commenters supported October 1 as a reasonable reporting date beyond 1996, for which the statute requires reporting by October 1. Several other commenters opposed an October 1 reporting date, arguing that it would be burdensome or impossible for their institutions to meet this timetable, especially if actual figures rather than budget figures must be reported, since these institutions' fiscal years end near October 1. One of these commenters suggested November 1 as an alternate reporting date beginning in 1997.

Discussion: The Secretary believes it is vital to fulfilling the intent of the statute that all prospective student athletes have this information available before they commit themselves to attending an institution as a student athlete. The Secretary also, however, appreciates the concerns of those commenters who believe that the October 1 disclosure date would be difficult to meet if an institution's fiscal year ends shortly before October 1. The Secretary believes it is possible to balance those concerns by designating October 15 as the disclosure date, beginning in 1997. The Secretary believes that allowing institutions two additional weeks provides needed flexibility. The Secretary also believes that the October 15 date will allow students adequate time to request this information before the start of the NCAA early signing period in the first week of November. Because the purpose of the legislation is to provide student consumers with timely information, the

Secretary does not believe it justifiable to push the disclosure date past October 15, due to the early NCAA signing period.

The Secretary notes that the October 1, 1996 reporting date is set by the statute, and cannot be changed by the Department.

The Secretary reiterates that information derived from an institution's budget would not necessarily provide the data on actual expenditures the statute requires. All reported data must be based on the institution's actual expenditures.

Changes: Section 668.41(e)(2) has been amended to establish October 15 as the annual disclosure date beginning October 15, 1997.

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

Comments: Several commenters questioned the scope of the regulations. They argued that small institutions, and institutions that do not award athletic scholarships, or do not derive revenue from athletic programs, should not be required to report under these provisions. These commenters in general maintained that applying the same reporting requirements to these institutions as to large institutions would be unfair and burdensome, given that large institutions have more extensive resources at their command and that making information about these institutions' athletic programs is purportedly the main reason for the statute.

One commenter stated that his institution did not give athletically-related student aid, and inquired whether these provisions applied to such institutions.

Discussion: The statute requires that all co-educational institutions of higher education that participate in any title IV, HEA program and have an intercollegiate athletic program prepare this report. It does not provide for any exemptions to this reporting requirement.

Changes: None.

Comments: Many commenters favored the development of a common format for the report to save staff time and to foster the provision of comparable data to students, but differed as to whether the format should be optional or mandatory.

Several commenters favored an optional common format, arguing that a school is the best judge of how to present its information, and that if a school differed from the norm, using a mandatory form would only increase cost and burden. Some of these