

One commenter recommended that schools simply be required to report consistently on a fixed twelve-month time period. This commenter stated that forcing institutions to use a standard period would only cause difficulties without benefit, because schools do have a variety of fiscal year and academic year definitions. One commenter recommended that institutions allocate the monthly income statement in which the academic year ends proportionally in accordance with the number of academic days in that month which are included in the academic year.

*Discussion:* In order to prevent confusion regarding the different uses of "academic year," the Secretary for purposes of this discussion and this section of the regulations will use the term "reporting year" whenever the statute refers to an "academic year".

The Secretary disagrees that the definition of an "academic year" found in the Student Assistance General Provisions regulations is adequate for the purposes of this statute. The definition in § 668.2 of those regulations does not necessarily define a set period of calendar time, and is used primarily in determining the amount of aid a student may receive.

The Secretary agrees with the commenters who interpreted the statute to require a twelve-month reporting period, and disagrees with those who opposed such an interpretation. The Secretary notes that some programs do make expenditures on athletics during the summer months, and these must be reported to ensure the complete reporting of data the statute requires. Those schools that only make expenditures during nine months of the year and make no expenditures during the summer will not face increased burden, as they simply will have no additional expenses to report.

The Secretary agrees with the commenter who argued that, because institutions base their academic years on different periods of time, institutions should not be required to use a single, standard twelve-month period of time. The Secretary agrees that institutions should make an effort to ensure that they use a consistent time period from year to year. The Secretary also notes that whatever the time designated as the reporting year, the Secretary expects institutions to disclose on each annual report the exact time period covered by each report. The Secretary has supplied a space on the optional form for institutions to supply this information.

Thus, the Secretary interprets the statute to allow, for these purposes only, each institution to designate a period of

calendar time as its reporting year, so long as the period of time so designated is twelve consecutive months in length. As noted above, the Secretary believes this specification of "year" as a twelve-month period is necessary to fulfill the statute's intent that institutions report all specified information regarding expenditures on athletics throughout the year.

The Secretary will deem it reasonable for an institution to designate its fiscal year as its reporting year for these purposes, so long as the fiscal year is twelve months in length.

*Changes:* A new section 668.48(b), *Definitions*, has been added; a new § 668.48(b)(4) is added to clarify the relevant definition of a reporting year for purposes of this section only.

*Comments:* Several commenters supported using the definition of an undergraduate student contained in the Student Assistance General Provisions regulations. One commenter urged that either a Departmental definition or the NCAA definition be adopted. One commenter urged the adoption of the definition of an undergraduate as "a student who has not received a degree from that or any other institution." One commenter supported defining an undergraduate student as someone enrolled in a baccalaureate degree-seeking program as defined by the regulations of the certifying institution. This commenter argued that such a definition is superior to that found in the program regulations, in that it defers to the institution, and is flexible, specific and clear. One commenter argued that the term is already defined in the education community and hence no clarification is needed.

One commenter questioned the need to collect enrollment information for numbers of male and female undergraduate students for the entire academic year, and instead urged the use of the Integrated Postsecondary Education Data Systems (IPEDS) Fall Enrollment Survey to collect this information.

*Discussion:* Upon further review, the Secretary agrees, for the purposes of these provisions only, that the term "undergraduate student" is sufficiently well-understood in the higher-education community. The Secretary will allow each institution to use its customary definition of an undergraduate student as the basis for reporting the data required by the statute. The Secretary believes that allowing each institution to report numbers of undergraduate students on the basis of its customary definition will satisfy these reporting requirements, and that for the Department to provide a special

definition that might oblige an institution to recount students on the basis of a definition different from the one it ordinarily employs would be needlessly burdensome. The Secretary does, however, expect institutions to provide a definition of undergraduate student if that definition is not found elsewhere in the institution's catalog or other similar publications.

The Secretary also stresses that for all other regulations governing title IV, HEA programs, the relevant definition of undergraduate student continues to apply according to its terms.

*Changes:* A new section 668.48(b)(5) is added that clarifies the definition of undergraduate student for purposes of this section only.

*Comments:* One commenter agreed that the term "intercollegiate athletic program" should include only varsity teams, not intramural teams.

*Discussion:* The Secretary appreciates the commenter's support for this interpretation.

*Changes:* None.

*Comments:* One commenter suggested that the defining element in designating a team as a varsity team be that it is funded through the university's department of athletics. This commenter argued that general institutional support does not necessarily indicate varsity status. One commenter argued that the level of financial support not be a factor in determining varsity status; rather, membership in an athletic association should be the determining factor. One commenter argued that both the type and level of financial support be taken into account. This would help prevent institutions from calling a club team an "unfunded varsity team." One commenter believed that a varsity team be designated by its participation in a sport that has an NCAA championship or is an NCAA emerging sport, or by a set number of intercollegiate contests each season, either set absolutely, or preferably by the institution's sports governance group, or some combination of these factors.

*Discussion:* Upon further review, the Secretary disagrees with the commenters who urged that a varsity team be defined by its receipt of funds through an athletic department, or by the type and level of funding it receives. The Secretary believes these definitions are too narrow in scope for the purposes of the statute. Such definitions would not include acknowledged varsity teams that receive funds from an institution that does not have an athletics department, acknowledged varsity teams that are funded from non-institutional sources, or unfunded teams that play a predominantly