

DEPARTMENT OF EDUCATION**34 CFR Part 668****Student Assistance General Provisions**

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Student Assistance General Provisions regulations to reflect changes made to the Higher Education Act of 1965, as amended (HEA), by the Campus Sex Crimes Prevention Act and to make a technical correction. The regulations clarify that institutions must include a new disclosure in their annual security reports that are due by October 1, 2003.

DATES: These regulations are effective October 31, 2002.

FOR FURTHER INFORMATION CONTACT: David Bergeron, U.S. Department of Education, 1990 K Street, NW. (8th Floor), Washington, DC 20006. Telephone: (202) 502-7815.

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SUPPLEMENTARY INFORMATION: The final regulations add a new paragraph, § 668.46(b)(12), to reflect a self-implementing change to section 485(f)(1) of the HEA that was made by the Campus Sex Crimes Prevention Act (section 1601 of Public Law 106-386). The Campus Sex Crimes Prevention Act adds a new disclosure to the list of disclosures an institution must provide in its annual security report to students and staff. In this new disclosure, an institution must inform members of the campus community of the means by which they can obtain information about registered sex offenders who may be present on campus. This change to the HEA is effective on October 28, 2002. The regulations clarify that institutions must include this new disclosure in their annual security reports that are due by October 1, 2003.

The final regulations correct an error in the definition of "Referred for campus disciplinary action", in § 668.46(a), to reflect the language of the HEA, by changing the word "student" to "person".

Waiver of Proposed Rulemaking and Negotiated Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these regulations merely reflect statutory changes to the HEA and needed technical corrections. The changes do not establish or affect substantive policy. The Secretary has concluded that these regulations are technical in nature and do not necessitate public comment. Therefore, under 5 U.S.C. 553(b)(B) the Secretary finds that such a solicitation would be unnecessary and contrary to the public interest. In addition, the Secretary also has decided to waive the 30-day delay in the effective date of these regulatory changes under 5 U.S.C. 553(d)(3).

For the same reasons, the Secretary has determined, under section 492(b)(2) of the Higher Education Act of 1965, as amended, that these regulations should not be subject to negotiated rulemaking.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations will affect certain institutions of higher education that participate in Title IV, HEA programs. The U.S. Small Business Administration (SBA) Size Standards define these institutions as "small entities" if they are for-profit or nonprofit institutions with total annual revenue below \$5,000,000 or if they are institutions controlled by governmental entities with populations below 50,000. A relatively small number of the 6,000 institutions of higher education participating in the Title IV, HEA programs meet the SBA definition of "small entities." The technical corrections and changes will not have a significant economic impact on any of the institutions affected.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Assessment of Educational Impact

Based on our own review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

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List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: October 25, 2002.

Sally L. Stroup,

Assistant Secretary, Office of Postsecondary Education.

For the reasons discussed in the preamble, the Secretary amends part 668 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1085, 1091, 1091b, 1092, 1094, 1099c, and 1099c-1, unless otherwise noted.

2. Section 668.46 is amended—

A. In paragraph (a), in the definition of "Referred for campus disciplinary action", by removing the word "student" and adding, in its place, "person".

B. By adding a new paragraph (b)(12). The addition reads as follows:

§ 668.46 Institutional security policies and crime statistics.

* * * * *

(b) * * *

(12) Beginning with the annual security report distributed by October 1, 2003, a statement advising the campus community where law enforcement agency information provided by a State under section 170101(j) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(j)), concerning registered sex offenders may be obtained, such as the law

enforcement office of the institution, a
local law enforcement agency with

jurisdiction for the campus, or a
computer network address.

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