

Supporting Statement

For

Request for OMB Approval

The Department of Education Accrediting Agency, Comparability Database Approval

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a hard copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information, or you may provide a valid URL link or paste the applicable section. Specify the review type of the collection (new, revision, extension, reinstatement with change, reinstatement without change). If revised, briefly specify the changes. If a rulemaking is involved, make note of the sections or changed sections, if applicable.

The Department of Education (the Department) allows accrediting agencies to submit applications and compliance reports for review recognition by the Secretary in a web-based, electronic information collection system and also allows attachments of supporting documents in PDF. The information collected is based on final as a result of negotiated rulemaking in early 2019 and would add new requirements to the current regulations. Data collection and burden for this collection are related to requirements from 34 CFR §602 The Secretary's Recognition of Accrediting Agencies. The authority for collecting this information is contained in the Higher Education Act of 1965, as amended (HEA), and 34 CFR § 602; sections include § 602.12, § 602.18, § 602.20, § 602.22, § 602.23, § 602.24, § 602.26, § 602.31, § 602.32, and § 602.36.

After negotiated rulemaking with committee consensus, the Department published new and revised regulations on November 1, 2019 under 34 CFR §602 that will take effect July 1, 2020. The regulations will require accrediting agencies to collect different, in some cases new, information from the institutions that they accredit. Changes and additions are listed below:

- In proposed §§ 602.11 and 602.12, transition from the concept of an accrediting agency's "geographic scope" as determined by the Department, to one of "geographic area" as reported by the agency and reflecting all States in which main campuses, branches and locations accredited by the agency are located.

- Under proposed § 602.12, no longer require an accrediting agency that is seeking its own recognition but is affiliated with an agency that is already recognized to document it has engaged in accrediting activities for at least two years.
- Under proposed § 602.12, no longer require agencies applying for an expansion of scope to have accredited institutions or programs in the areas for which the expansion is sought, while reserving in the Department in such instances authority to establish a limitation on the agency or require a monitoring report.
- In § 602.18, establish that agencies must not use religious-based policies, decisions and practices as a negative factor in applying various of their accrediting standards, while recognizing the agencies' authority to ensure that curricula are complete.
- Also in § 602.18, acknowledge the ability of agencies in appropriate circumstances to establish alternative standards, policies and procedures, and to extend the time for complying with their standards, policies and procedures, while establishing guidelines for ensuring that agencies, institutions and programs remain accountable in such circumstances.
- Revise § 602.20 to remove overly prescriptive timelines for agency enforcement actions.
- Modify substantive change requirements in § 602.22, by requiring more restrictive oversight of institutions posing higher risk, and less of other institutions; by permitting an agency to provide more expeditious review of certain kinds of substantive change by delegating decision-making authority to agency senior staff; and by permitting agencies to provide retroactive effective dates for substantive change approvals, subject to certain requirements.
- Add to § 602.23 a requirement for public notice of the procedures and steps required by agencies, States and the Department with respect to accreditation, preaccreditation and substantive change applications and decisions.
- Also in § 602.23, add requirements related to grants of preaccreditation, and require each agency that serves as a title IV, HEA gatekeeper to use Department definitions of branch campus and additional location, as well as to notify the Department if it accredits part but not all of an institution participating the title IV programs.
- In § 602.24, streamline requirements for approvals of branch campuses, establish new requirements for teach-out plans and teach-out agreements, remove the requirement related to accrediting agency review of institutional credit hour policies during

comprehensive reviews, and, with respect to institutions participating in the title IV, HEA programs, conform agency definitions of branch campuses and additional locations with the Department's.

- Under proposed § 602.26, add a requirement for notice to the Secretary, the State, other accrediting agencies, and current and prospective students of initiation of an adverse action, and modify other notice requirements.
- Revise §§ 602.31-602.37 to incorporate the substantial compliance standard and the use of monitoring reports; revise requirements regarding agency applications and staff review of the applications; require NACIQI involvement in any decision for initial recognition; allow greater flexibility in permitting agencies an opportunity to come into compliance; provide an opportunity for briefing by an agency and the Department staff if the senior Department official determines that a decision to deny, limit or suspend may be warranted; and make other procedural and technical changes.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information allows accrediting agencies to submit applications and compliance reports for review of recognition by the Secretary and also allows attachments of supporting documents in PDF. Information will be collected electronically, via mail, and/or site visits. Accrediting agencies use the information that they collect to determine whether the institutions that they accredit are adhering to the Department's criteria under 34 CFR §602.

Through this final regulatory action, the Department will improve its interactions with accrediting agencies and improve information available to the public. These regulations will: (1) Strengthen the regulatory triad by more clearly defining the roles and responsibilities of accrediting agencies, States, and the Department in oversight of institutions participating in the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended (title IV, HEA programs); (2) establish "substantial compliance" as the standard for agency recognition; (3) increase academic and career mobility for students by eliminating artificial regulatory barriers to work in a profession; (4) provide greater flexibility for institutions to engage in innovative educational practices more expeditiously and meet local and national workforce needs; (5) protect institutional autonomy, honor individual campus missions, and afford institutions the opportunity to build campus communities based upon shared values; (6) modify "substantive change" requirements to provide greater flexibility to institutions to innovate and respond to the needs of students and employers, while maintaining strict agency

oversight in instances of more complicated or higher risk changes in institutional mission, program mix, or level of credential offered; (7) clarify the Department's accrediting agency recognition process, including accurate recognition of the geographic area within which an agency conducts business; (8) encourage and enable accrediting agencies to support innovative practices, and provide support to accrediting agencies when they take adverse actions; and (9) modify the requirements for State authorization.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision of adopting this means of collection. Also describe any consideration given to using technology to reduce burden.

The Department has implemented a web-based, electronic information collection system that allows agencies, state agencies, and countries to submit applications and compliance reports for review of comparability or recognition. The system also allows attachments of supporting documents in PDF format as well. In some cases, the submitting organization provides a web address and informs Department staff that the supporting documentation is on a website.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The information collected is not obtained through any other means within the Federal government; the process does not involve duplication of existing criteria and processes.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden. A small entity may be (1) a small business which is deemed to be one that is independently owned and operated and that is not dominant in its field of operation; (2) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field; or (3) a small government jurisdiction, which is a government of a city, county, town, township, school district, or special district with a population of less than 50,000.

Collection of this information does not involve small businesses or other small entities.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Consequences for not requiring the final changes, not collecting the information or collecting the information less frequently would jeopardize the accreditation process. The Secretary would not be able to review recommendations and the information needed to determine compliance with 34 CFR § 602. Additional consequences would be students' inability to receive Title IV Federal Student Aid; lack of participation in non-Title IV programs; and the inability to ensure that the accrediting organization is a reliable authority regarding the quality of education offered at the institutions they accredit.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results than can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or that unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances that would cause an information collection to be conducted in a manner consistent with any of the examples listed above.

8. As applicable, state that the Department has published the 60 and 30 Federal Register notices as required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instruction and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The Department developed the final regulations after conducting negotiated rulemaking with affected entities and other interested parties. The public comment period for this information collection package ran concurrently with the Notice of Proposed Rulemaking published in the Federal Register on June 12, 2019, Vol. 84, No. 113. No substantive comments were received.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees with meaningful justification.

The Department does not provide any payment or gift to an accrediting agency that applies for recognition.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If personally identifiable information (PII) is being collected, a Privacy Act statement should be included on the instrument. Please provide a citation for the Systems of Record Notice and the date a Privacy Impact Assessment was completed as indicated on the IC Data Form. A confidentiality statement with a legal citation that authorizes the pledge of confidentiality should be provided. If the collection is subject to the Privacy Act, the Privacy Act statement is deemed sufficient with respect to confidentiality. If there is no expectation of confidentiality, simply state that the Department makes no pledge about the confidentiality of the data.

No assurances of confidentiality are given to the countries/accrediting agencies other than those provided under the Freedom of Information Act.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. The justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive or private nature in the information collected.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents by affected public type (federal government, individuals or households, private sector – businesses or other for-profit, private sector – not-for-profit institutions, farms, state, local or tribal governments), frequency of response, annual hour burden, and an explanation of how the burden was estimated, including identification of burden type: recordkeeping, reporting or third party disclosure. All narrative should be included in item 12. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in the ROCIS IC Burden Analysis Table. (The table should at minimum include Respondent types, IC activity, Respondent and Responses, Hours/Response, and Total Hours)**
- **Provide estimates of annualized cost to respondents of the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

The Secretary's final regulations include a new data collection related to requirements under 34 CFR §602; specific criterion include: §602.12, §602.18, §602.20, §602.22, §602.23, §602.24, §602.26, §602.31, §602.32 and §602.36. These final regulations will affect 53 accrediting agencies (*see Summary Chart within this document*).

The estimated burden under § 602.12 would increase by 1 hour [1×1] under OMB Control Number 1840-0788.

Collectively, the one-time estimated burden for § 602.18(a)(6), § 602.20(a)(2), § 602.20(b), § 602.20(d), § 602.22(a)(3)(i), § 602.22(a)(3)(ii), § 602.22(b), § 602.23(f)(1)(ii), § 602.24(a), § 602.24(c), § 602.24(f), and § 602.26(b), is 636 hours (53×12) under OMB Control Number 1840-0788.

The estimated one-time burden for § 602.23 is 106 hours (53×2) under OMB Control Number 1840-0788.

There are requirements under § 602.24 that are being deleted in full.

Collectively, under § 602.24(a), § 602.24(c), and § 602.24(f), we estimate, on average, added burden of 5,347 hours ($1 \times 5,347$).

The estimated burden for § 602.31 is 285 hours ($[285 \text{ hours}/53 \text{ agencies}] = 5.37$) under OMB Control Number 1840-0788.

Over the last five years, the Department has received fewer than five requests for expansion of scope. The estimated burden for § 602.32 is 179 hours (53×3) + (1×20) under OMB Control Number 1840-0788.

We estimate that, on average, the burden for § 602.36 would increase 8 hours (1×8) under OMB Control Number 1840-0788.

Regulatory Section	Final Changes to Regulations	Final Burden Hours
§602.12(b)(1)	Agency would notify the Department of a geographic expansion and publicly disclose it on the agency's website, without requesting	

	permission.	1 hour
§ 602.18(a)(6), § 602.20(a)(2), § 602.20(b), § 602.20(d), § 602.22(a)(3)(i), § 602.22(a)(3)(ii), § 602.22(b), § 602.23(f)(1)(ii), § 602.24(a), § 602.24(c), § 602.24(f), and § 602.26(b),	Agency would publish and distribute new policies, with detailed requirements.	636 hours
§ 602.22(a)(3)(i)	Agency would designate a staff member to approve or disapprove certain substantive changes.	--
§ 602.23(a)(2) § 602.23(f)(1)(ii)	Agency would make publicly available the procedures that institutions or programs must follow in applying for accreditation, preaccreditation, or substantive changes and the sequencing of those steps relative to any applications or decisions required by States or the Department relative to the agency's preaccreditation, accreditation or substantive change decisions; require that all preaccredited institutions have a teach-out plan with specific requirements.	106 hours
§ 602.24	Agency would delete existing credit hour policy requirements and overly prescriptive language; and add new language with definition clarifications.	5347 hours

§ 602.31(f)	Agency would redact personally identifiable information and other sensitive information prior to sending documents to the Department.	285 hours
§ 602.32(a) § 602.32(j)(1)	Specifies what accrediting agencies preparing for recognition renewal would submit to the Department 24 months prior to the date their current recognition expires; outlines the process for an agency seeking an expansion of scope, either as a part of the regular renewal of recognition process or during a period of recognition.	179 hours
§ 602.36(f)	Senior Department Official would determine whether an agency is compliant or substantially compliant, which would give accrediting agencies opportunities to make minor modifications to reflect progress toward full compliance using periodic monitoring reports.	8 hours
Proposed Burden Hours and Costs		+6,562
Total Reporting Burden Under 34 CFR §602		10,550

The final new burden hours are 6,562.

Current approved burden:	3,988 hours
<u>Final burden hours for this collection:</u>	<u>6,562 hours</u>
Final burden total:	10,550 hours

The current burden of 3,988 hours reflects an earlier revision to #1840-0788, which was related to requirements from 34 CFR §602, 34 CFR §603, 34 CFR §600.55, 34 CFR §600.56., and the criteria for state approval agencies for nurse education published in the 1969 Federal Register. However, the final burden of 6,562 hours for this collection *does not* include any changes to 34 CFR §603, 34 CFR §600.55, 34 CFR §600.56. The final burden of 6,562 hours for this collection is *only* associated with criteria under 34 CFR §602.

- **13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)**
 - **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and acquiring and maintaining record storage facilities.**
 - **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
 - **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and**

usual business or private practices. Also, these estimates should not include the hourly costs (i.e., the monetization of the hours) captured above in Item 12.

There are \$0 startup costs associated with this collection. Any other costs associated with burden related to this collection are discussed in section 12.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

There is no direct cost to the Federal government to collect the information agencies must submit.

15. Explain the reasons for any program changes or adjustments. Generally, adjustments in burden result from re-estimating burden and/or from economic phenomenon outside of an agency's control (e.g., correcting a burden estimate or an organic increase in the size of the reporting universe). Program changes result from a deliberate action that materially changes a collection of information and generally are result of new statute or an agency action (e.g., changing a form, revising regulations, redefining the respondent universe, etc.). Burden changes should be disaggregated by type of change (i.e., adjustment, program change due to new statute, and/or program change due to agency discretion), type of collection (new, revision, extension, reinstatement with change, reinstatement without change) and include totals for changes in burden hours, responses and costs (if applicable).

Data collection and burden for this specific collection are related to requirements from 34 CFR §602: The Secretary's Recognition of Accrediting Agencies. The Department is requesting an increase in burden of 6,562 hours from 53 accreditors.

6,562 hours/53 accrediting agencies

The Secretary final changes to criteria under 34 CFR §602, requires substantial adjustments to accrediting agencies' operations and reporting practices for maintaining recognition. The final changes along with estimated burden hours are outlined in the chart included in the response to Question #12.

Although in an earlier collection we had 94 approved responses, we are only requesting comments from 53 Title IV gatekeeping accrediting agencies that are affected by 34 CFR §602.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The Department does not formally publish any of the information it collects from accrediting agencies. However, Department staff does prepare an analysis of an agency's compliance with the criteria for recognition based, in part, on the information that the agency submits in its application.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The Department seeks approval to not display the expiration date for OMB approval of the information collection because the Department does not use a form to collect the information. The Office of Postsecondary Education/Accreditation division currently displays and will continue to display on the website the OMB Control Number for this collection used by accrediting agencies to submit required information.

18. Explain each exception to the certification statement identified in the Certification of Paperwork Reduction Act.

No exception is requested.

B. Collections of Information Employing Statistical Methods

The collection of information does not employ statistical methods.