

# Getting It Right: Analyzing the Accuracy of Federal Burden Estimates for Title IV Financial Aid Compliance

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**T**he National Association of Student Financial Aid Administrators (NASFAA) seeks to gain a better understanding of how administrative burden estimates—the time and dollar costs associated with collecting and reporting information to the federal government—are calculated with respect to federal regulations governing college financial aid. Casual evidence suggests that current estimates often understate the true amount of time and resources needed, which may have an adverse effect on the ability of financial aid offices to effectively provide the suite of services they offer to students and families.

Understanding how estimates are calculated and determining whether there are areas for improvement are important on several fronts. College financial aid offices are managing ever-increasing volumes of student aid dollars and larger populations of students and families that do not have a solid understanding of financial aid. This is occurring at the same time that college budgets have remained generally flat and standards for regulatory compliance, particularly over the last 10 years, have expanded considerably. Taken together, these forces have greatly strained the ability of financial aid offices to continue providing the level of service that students and families both expect and deserve. Compounding that strain are estimates of the time and cost of regulatory compliance that do *not* reflect the actual effort expended. Inaccurate administrative burden estimates unfairly reflect the resource constraints college financial aid offices face, which hurts students as well.

In addition, accurate burden estimates would help efforts to identify existing requirements that are overly burdensome. Accurate burden data could also assist in efforts to ascertain the true efficacy of proposed new requirements.

This brief endeavors to answer the following questions:

1. What federal formulae and/or methodologies are used to calculate the administrative burden for proposed federal regulations as they relate to college financial aid?
2. How accurate are these formulae or methodologies?
3. Do financial aid administrators responsible for implementing federal student financial aid regulations view current administrative burden estimates as fair representations of time spent on-task?
4. What strategies could be employed to ensure that burden estimates by the Department of Education (ED) best reflect financial aid administrators' actual incremental burdens?

### **Question 1: What federal formulae and/or methodologies are used to calculate the administrative burden for proposed federal regulations as they relate to student financial aid?**

Administrative (paperwork) burden estimates are established for all federal agencies under guidance defined by the Paperwork Reduction Act (PRA) of 1995. Compliance with the PRA is managed by the Office of Information and Regulatory Affairs (OIRA), which is housed within the Office of Management and Budget (OMB).

There are no set formulae or methodologies in law or regulation for estimating administrative burden. Agencies that seek to impose information collection on public entities must submit requests to OIRA. For example, when ED sought to impose the gainful employment regulations, they were required to calculate

estimates for any of the reporting requirements that schools would have been required to undertake. OIRA then:

1. Reviews the agency's<sup>1</sup> plan, including burden hours imposed;
2. Approves the process and associated burden hours;
3. Establishes an OMB document control number; and
4. Sets a term for how long that information collection process can take place before being renewed.

Because the types of information collected and the purposes for their use are diverse, there are no set formulae for estimating burden; however, OMB does provide comprehensive implementation guidance for federal information collection review, as well as standards by which OIRA reviews agency information collection practices and burden requirements.<sup>2</sup>

Calculated estimates from the respective agency are expected to account for the following activities:

1. Reviewing instructions;
2. Developing, acquiring, installing, and utilizing technology and systems for the purpose of collecting, validating, and verifying information;
3. Developing, acquiring, installing, and utilizing technology and systems for the purpose of processing and maintaining information;
4. Developing, acquiring, installing, and utilizing technology and systems for the purpose of disclosing and providing information;
5. Adjusting the existing ways to comply with any previously applicable instructions or requirements;
6. Training personnel to be able to respond to a collection of information;
7. Searching data sources;
8. Completing and reviewing the collection of information; and
9. Transmitting, or otherwise disclosing the information.

OMB provides agencies with detailed guidance on what should be included in each of the activities defined above. Additionally, within each of the aforementioned categories, agencies are expected to develop burden estimates that account for the following:<sup>3</sup>

1. Burden-hours per respondent;
2. Aggregate burden-hours;
3. Capital and other non-labor costs per respondent; and
4. Aggregate capital and other non-labor costs.

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<sup>1</sup> OMB guidance refers to "agencies" as a broad organizational unit that also includes federal departments. While the focus of this study is on the Department of Education, the two terms (agency and department) are interchangeable.

<sup>2</sup> The most comprehensive federal guidance information found came from the Center for Regulatory Effectiveness' archive draft document, *Implementing Guidance for OMB Review of Agency Information Collection* from August 1999.

<http://thecre.com/pdf/PRAguidenew.pdf>

<sup>3</sup> See Appendix B in the reference document identified in footnote #2 for further information on what agencies should include under these categories.

While agencies are not required to use them, OIRA provides a series of Excel-based template workbooks for making administrative burden estimates.

As part of any regulatory action requiring the collection of public information, reporting requirements and associated paperwork burden, agencies are required to submit to OIRA an Information Clearance Package. The information contained in this package includes the following:

1. The proposed collection of information in the appropriate form or format, including documents to be used in the collection of information, or the document(s) describing the collection of information (i.e., forms, schedules, questionnaires, handbook, manual, interview plan or guide, rule, regulation, electronic media, or other document);
2. The OMB Form 83-I (entitled “Paperwork Reduction Act Submission”)<sup>4</sup>;
3. Certification form;
4. The Supporting Statement (which includes the record supporting the certification), and other supporting documentation;
5. A summary of any public comments, or copies of the comments without a summary if the number of comments are few in number, and the agency’s responses to those comments;
6. The date and page in the Federal Register of the publication of the 60-day and 30-day Federal Register notices, the text of the 30-day Federal Register notice, and the actual or expected dates of publication for each;
7. A copy of the relevant statute and regulation mandating or authorizing the collection of information;
8. Interviewer<sup>5</sup> guides or instructions;
9. Letters or other explanatory material to be given or sent to prospective respondents; and
10. Letters and other materials, prepared in advance, to be given or sent to members of the public who do not respond.

To highlight the detail and scope of an Information Clearance Package, an example of a supporting statement to an agency request is included as Appendix A. An example of a Department of Education spreadsheet depicting disaggregated burden estimates is included as Appendix B.

Given the lack of an explicit formula for estimating burden, as the Information Clearance Package checklist shows, agencies are required to solicit public comment on information requests through the Federal Register.<sup>6</sup> Though it is unclear to what extent ED draws on such comments when calculating administrative burden estimates (see question #2), the inclusion of those comments in the OIRA package suggests that approval is granted, at least in part, by reconciling public comments with calculated burden estimates.

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<sup>4</sup> A link to this form can be found here: <http://www.whitehouse.gov/sites/default/files/omb/inforeg/83i-fill.pdf>

<sup>5</sup> Refers to cases where the information collection request requires that the information in question is procured through interview(s). This does not typically occur in the case of college financial aid issues. It is included here for the sake of completeness.

<sup>6</sup> For a better understanding of the steps and procedures in the informal rulemaking process, including public notices of intent to collection information, see the regulatory process map in Appendix E.

A website maintained by OIRA (<http://www.reginfo.gov/public/do/PRASearch>) provides a publicly searchable database of historical and current information collection reviews. After setting search parameters, returned results provide hyperlinks to all supporting documentation, including supplemental statements and burden estimation worksheets, where such worksheets have been completed.

## **Question 2: How accurate are the formulae or methodologies?**

The accuracy of any formulae that ED utilizes for estimating incremental burden is unclear. In looking at actual ED estimates, precision can get down to as low as one-sixth of an hour (see Appendix B). To the extent that a burden estimate is potentially short by just three minutes, when applied over thousands of institutions and hundreds/thousands of internal records the discrepancy between actual and expected time to complete an information collection can be remarkably large in aggregate. Consider verification as an example. According to the Department of Education, the average number of elements to be verified is three, which ED estimates takes schools 0.12 hours (7.2 minutes) per case to complete. In a school that has 10,000 Title IV applicants, assuming one-third get verified, 3,333 cases would take approximately 400 hours to complete. If that burden estimate was instead 10 minutes, for the same number of cases it would take 550 hours, or nearly one additional month, of full-time work for a single employee to complete the same workload.

Effort was made to contact ED for interviews as part of this project, though, to-date, all requests have gone unanswered. And while the instructions for completing the Supporting Statement<sup>7</sup> suggest that agencies consult directly with respondents and offer an explanation for how burden estimates are calculated, a light review of the Information Clearance Packages provided by ED to OIRA reveal no information on either of these two points.

To the extent that OIRA must both review and approve any information collection/administrative burden estimate, coupled with the guidance and package requirements necessary for implementing a collection, it is reasonable to conclude that efforts to accurately reflect administrative burden: 1) should meet government-wide acceptable thresholds, and 2) should not be expected to deviate greatly from real-world practice. That OMB, through OIRA, must clear agency requests means that ED information collection processes themselves are subject to oversight and ultimate third-party approval.<sup>8</sup> In the case of discrepancy between estimates and real-world practices, the requirements in the Information Clearance Package that agencies provide evidence of public notice in the Federal Register and summaries of public comments, provides some level of assurance that key stakeholders have the opportunity to provide expert advice that can shape the eventual estimates.

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<sup>7</sup> Indicates the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. 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.

<sup>8</sup> It is important to note that only those information collection exercises deemed economically significant must receive OMB/OIRA approval. Given that rules and information collection requests related to postsecondary education financial aid generally affect thousands of institutions, they are largely, if not wholly, subject to OMB approval.

### **Question 3: Do financial aid administrators responsible for implementing federal student financial aid regulations view current administrative burden estimates as fair representations of time spent on task?**

Part of this study involved talking with seven college financial aid directors to get their perspectives on the effort expended by the federal government towards meeting regulatory compliance. These individuals represented a variety of school types and sizes, including large public state universities and community colleges to small private nonprofit schools and for-profit institutions. Participants were asked a short series of questions, including:

1. To what extent do ED estimates accurately reflect the actual time spent performing those activities?
2. To what extent do you provide public comments on estimates?
3. To what extent has administrative burden effort strained your capacity to perform other necessary work functions?
4. What suggestions would you have for improving the process by which ED creates estimates?

All but one of the administrators indicated that they actively monitor new burden estimates, and all reported that burden estimates routinely understate the amount of time actually spent completing associated tasks. Interview subjects pointed to verification, return of Title IV funds (R2T4), and the new 150 percent direct subsidized loan limit as the most problematic areas (See Appendix C, a “Burden Tracker” that documents the time schools have spent implementing the 150 percent rule), though they also suggested that estimates were notably off in requirements for the Fiscal Operations Report and Application to Participate (FISAP), and FAFSA completion as well.

The general perception is that ED burden estimates only tend to capture the time effort of physically recording and submitting information, while missing the much greater amount of effort put into collecting, matching and verifying data. In the case of wholly new metrics, not only can additional staff training be required but schools may have to create customized computer programs to pull requisite data. As some interview subjects observed, while a burden estimate error associated with any single activity may be manageable, the accumulation of multiple activities requiring more effort than ED estimates makes it challenging even for large-staffed financial aid offices to manage. In general, institutions with both large and small financial aid office staffs indicated that mismatched regulatory burden often strains internal capacity. Large schools spoke of the added need to develop new internal training/processes. Small schools simply suggested that they routinely need to work evenings and weekends to manage their compliance workload.

Approximately half of the respondents indicated that they typically offer public comment on estimates. Those not providing feedback most often suggested it was because they have never seen reasonable or sensible public comments in the past get incorporated into final estimates.

Nearly all respondents suggested that ED needs to work better with practitioners and solicit additional information. The main recommendation was to create a dedicated advisory panel that could inform ED specifically on these issues. Other suggestions included making administrative burden a dedicated component of negotiated rulemaking, having ED test data information retrieval through the large existing software providers that offices currently use, and having ED thoroughly evaluate whether the information that is being requested is not already being collected by ED for other purposes.



#### **Question 4: What strategies could be employed to ensure that the Department of Education's burden estimates best reflect financial aid administrators' actual incremental burdens?**

In the absence of direct information from ED about how, precisely, the budget office goes about estimating incremental burdens, identifying areas for improvement is challenging. However, the federal government has taken steps in recent years to reduce administrative burden and to highlight strategies for continued improvement.

An OMB Memorandum in June 2012 identified 10 strategies that agencies should be considering in their efforts to reduce paperwork burden.<sup>9</sup> Among those relevant to the issue at hand are:

1. Eliminating redundant or unnecessary collections. They should also, where appropriate, streamline existing collections (by reducing the number of questions and increasing simplicity, for example).
2. Use of "short form" options. Significant burden reductions can be achieved by providing respondents the option of using streamlined short forms for situations of lesser complexity or importance.
3. Exemptions or streamlining for small entities (including small businesses). Because of economies of scale, a collection may be disproportionately more burdensome for a small entity than a large one. Important burden reduction efforts may involve exemptions of small entities from reporting requirements, or streamlined requirements for such entities (as in the case of short or simplified forms).
4. Use of electronic communication and "fillable fileable" forms (or data systems). Electronic communication can substantially reduce burdens on respondents and simultaneously increase efficiency in data collection and processing.
5. Reducing frequency of information collection. Agencies should reexamine the frequency of routine reporting requirements to determine whether less frequent reporting would meet program needs.
6. Reducing record retention requirements (consistent with law). Administrative record retention requirements can often be costly, as regulated entities must set aside valuable storage space, time, and human resources to maintain records.
7. Maximizing the re-use of data that are already collected. Administrative or program data can sometimes be re-used or shared to reduce the paperwork burdens imposed on the public.

In addition, since the establishment of Executive Order 13563, Improving Regulation and Regulatory Review,<sup>10</sup> ED has established a plan for streamlining and reducing paperwork burden, particularly in the area of postsecondary student financial aid (see Appendix D). Additional information about ED's current efforts to review and improve existing paperwork burden can be found on a web page that they maintain (<http://www2.ed.gov/policy/gen/reg/retrospective-analysis/index.html>) related to E.O. 13563. A copy of ED's most recent Retrospective Review Plan Report (July 2013), which identifies specific areas related to college financial aid programs, is attached as Appendix C.<sup>11</sup>

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<sup>9</sup> <http://www.whitehouse.gov/sites/default/files/omb/inforeg/memos/reducing-reporting-and-paperwork-burdens.pdf>

<sup>10</sup> [http://www.whitehouse.gov/sites/default/files/omb/inforeg/icb/2012\\_icb\\_datacall\\_0.pdf](http://www.whitehouse.gov/sites/default/files/omb/inforeg/icb/2012_icb_datacall_0.pdf)

<sup>11</sup> For additional information on regulatory burden as it relates to higher education, see the Advisory Committee on Student Financial Assistance's final report on higher education regulations: <http://www2.ed.gov/about/bdscomm/list/acsf/hersfinalrpt.pdf>



## POLICY RECOMMENDATIONS

Greater transparency from the Department of Education would allow for a more detailed understanding how burden estimates are calculated. It would also form a solid basis for constructive dialogue on how to ensure that estimates reflect, with more representative accuracy, the effort that school financial aid offices must undertake for the purpose of compliance.

Despite a rigorous system of checks and balances that exists within the federal government to ensure that public and/or expert opinion helps to inform estimates, the financial aid administrators contacted for this study consistently expressed the view that their contributions seemed to rarely, if ever, alter OMB's final judgment. Even if burden estimates are in fact consistent with observed behavior, the general lack of transparency on behalf of ED about how estimates are constructed does little to facilitate a strong industry/government partnership.

Based on the review conducted and the thoughtful observations provided by financial aid administrators, several policy recommendations can be made:

- 1. Conduct a detailed analysis on a sample of regulations to assess the difference between estimated burden estimates and observed outcomes.** The Department of Education should conduct an analysis to determine the accuracy of burden estimates by selecting a random sample of regulations and then surveying institutions to find out if there is a significant discrepancy. While a large percentage of students are enrolled at institutions that have sizeable financial aid offices capable of assigning dedicated staff to compliance, there is an overwhelmingly large number of very small institutions where staff resources are extremely limited. As the earlier verification example demonstrates, adjustments of just two minutes can add hours or weeks of additional compliance burden that detracts from smaller financial aid offices' abilities to perform their primary task of helping students procure the resources to finance their education. Alternatively, Congress could request that the Government Accountability Office (GAO) conduct a similar study.
- 2. Create an advisory committee or leverage existing advisory resources to help the Department of Education provide estimates that are more consistent with financial aid practitioners' experience.** A committee of representative practitioners could be utilized on an as-needed basis to provide ED with practical feedback that could inform the burden estimation process. This would not only promote stakeholder participation but also help to ensure that financial aid offices have representation in the process even if they are unable to provide public comments to *Federal Register* notices.
- 3. Include burden estimates in the negotiated rulemaking process.** While not all activities that increase administrative burden necessarily go through the rulemaking process, in those cases that do, ED has already assembled key stakeholders for the purpose of creating rules that reflect broader consensus.
- 4. Have the Department of Education and/or Office of Management and Budget conduct a follow-up with institutions, post-implementation, to evaluate the accuracy of burden estimates.** Burden estimates remain estimates until institutions have actually implemented a new rule. OIRA should limit the expiration date of an initial burden-hour request to no more than one year, and

conduct a follow-up survey several months after a request goes into effect in order to assess the extent to which an actual burden aligns with its estimate. This would not only protect institutions from the adverse consequences of inaccurate estimates, but also strengthen the intentions of the Paperwork Reduction Act by utilizing ex post facto evidence rather than relying solely on ED-established estimates and public comments about what the impact may be.

## APPENDICES

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