



November 8, 2021

Attention: Ms. Kate Mullan
PRA Coordinator

U.S. Department of Education
Strategic Collections and Clearance
Governance and Strategy Division
Office of Chief Data Officer
Office of Planning, Evaluation and Policy Development

*RE: Docket ID No. ED-2021-SCC-0093. Comments Submitted in Response to Agency Information Collection Activities; Higher Education Emergency Relief Fund (HEERF) I, II, III Data Collection Form – **RESPONSE TO REVISED DRAFT FORM (9/27/21)***

Electronically Submitted to Federal eRulemaking Portal at:
<https://www.reginfo.gov/public/do/PRAMain>

Dear Ms. Mullan:

Included is COGR's response to the Department of Education's *Higher Education Emergency Relief Fund (HEERF) I, II, & III Data Collection Form (revised draft form, 9/27/21)*. COGR also submitted a [Response Letter to the Department of Education](#), original request for comments, applicable to the draft dated 6/15/21.

COGR is an association of 190 public and private U.S. research universities and affiliated academic medical centers and research institutes. We focus on the impact of federal regulations, policies, and practices on the performance of research and other programs sponsored by federal agencies. We have a longstanding and productive partnership with the U.S. Department of Education (the Department), and our members are appreciative of the hard work and commitment that the Department has demonstrated in its implementation of the Higher Education Emergency Relief Fund (HEERF).

Below are COGR's comments on the revised form.

1. Lost Revenue Documentation. COGR was concerned with the original reporting format for lost revenue. The revised format eliminates precise identification to financial statement categories and instead focuses on estimates to broad functional areas. *COGR appreciates the Department's responsiveness to our original concern.*

2. Student Demographic Data. COGR previously raised the concern that the Department has significantly expanded its data collection request for student demographic data. In the initial student application process, much of this data was not required so in some cases would have to be acquired retroactively. Also, at many institutions, race/ethnicity is an optional self-report data point. Consequently, it will be difficult, if not impossible, for many institutions to respond to this data collection request. In regard to gender reporting, similar administrative challenges exist and this also would require a retroactive process to acquire the data.

However, the Department has added a data field (in all instances above) titled “*Students not categorized in IPEDS*.” If the intent of this data field is to serve as a default that can be used to categorize all students, this may be an acceptable solution. And if so, it would be helpful for the Department to clearly indicate that this field should be used when the data cannot be obtained.

COGR Request: This is a retroactive data collection request. Retroactive requests are burdensome, potentially impractical (or even impossible) to obtain—and may be inappropriate. When this is the case, data collection requests either should be deleted from the collection form or significantly revised to avoid an administratively burdensome new requirement. If the intent of the “Students not categorized in IPEDS” data field is to allow institutions to bypass this data collection request in cases where it is impractical or impossible to comply, COGR requests that this clearly be described in the instructions for completing these sections of the annual report.

3. New Instruction to Grantees – Adverse Actions. The following instruction was added to page 1 of the form:

Annual Reporting: This report should be completed based on all HEERF activities (HEERF I, II, and III) in the applicable reporting periods. Failure to meet the HEERF reporting requirements is a violation of the grantee’s certification and agreement and could lead to adverse action.

Our members, and the higher education community at-large, are focused on thorough, accurate, and transparent reporting of HEERF activity. This addition could be perceived as an ominous threat, which could then translate into inappropriate audit activity and/or unwarranted “adverse actions.”

COGR Request: This new instruction that has been added to the form should be deleted.

4. New Instruction to Grantees – Optional Responses. The following instruction was added to page 2 of the form:

In order to meet HEERF program requirements, institutions need to provide complete answers to each question. However, for the second annual report covering January 1, 2021-December 31, 2021, institutions have the option of taking more time to submit

answers to questions marked with an asterisk(). Institutions can submit answers to questions marked with an asterisk in early 2022 as part of the second annual report (in alignment with the table above) OR in early 2023 as part of the third annual report. Starting with the third annual report, institutions need to provide answers to all questions including those marked with an asterisk per the reporting schedule in the table above.*

Some of the questions marked with an asterisk (*) will be challenging to complete, and the value-added is not clear. It is helpful that the Department has indicated institutions will have additional time to complete these. However, we still raise the concern around administrative burden and identifying situations where the data form can be simplified by eliminating those data requests that may not constitute a statutory requirement.

COGR Request: Some of these data collection requests—marked with an asterisk (*)—are burdensome and it is not clear that they are statutorily required. We urge the Department to simplify the annual report by deleting selected data requests.

5. Estimated Burden. In our response from August, we commented that the 12 hour estimate to complete the form was not a realistic metric. We appreciate that the Department has reviewed their original estimate and has recalculated the burden to be 40 hours for completion (see Federal Register Notice, Total Estimated Number of Responses: 4,879 and Total Estimated Number of Annual Burden Hours: 195,160). This seems to a more accurate measure.

However, for the same reasons we indicated in our August letter (i.e., the new Department portal will create new challenges for the community, and after-the-fact modification of the form requires institutions to update internal processes and systems that were put in place to meet the original requirement), we are still concerned about unintended consequences and the corresponding administrative burden that will be created.

As we wrote in our August letter:

While the intended results of the new data collection form may have broad public value, its implementation poses the risk of creating an administratively burdensome and expensive unfunded mandate for research institutions. COGR's position is that successful implementation of new data collection requirements is dependent on two key foundations: 1) collaboration between the agency and the institutions, and 2) a mechanism that acknowledges how the new regulation will be paid for. Doing so will minimize the impact of unfunded mandates, and ultimately, maximize compliance and stewardship of federal funds.

COGR Request: Prior to finalizing the data collection form, please consider the comments COGR has raised in this letter—and where there are opportunities to simplify the data collection form (including the Department data collection web portal) we urge the Department to do so.

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COGR supports actions by the Department that enhance program performance, support transparency, provide information of value to all stakeholders, and have an implementation strategy that is developed in a collaborative manner. Fostering collaboration between the Department and colleges and universities in determining how data is presented to the public, ultimately, is beneficial to both the Department and colleges and universities.

Stakeholders expect data to be presented in a user-friendly format that conveys an accurate depiction of how institutions implemented HEERF. By seeking input from colleges and universities on how best to present information, stakeholders will be able to accurately assess the data and determine that HEERF was implemented using the highest standards of compliance and stewardship of federal funds

COGR appreciates the opportunity to submit these comments and stands ready to answer any questions that you may have regarding our comments. In this regard, please feel free to contact David Kennedy by email at dkennedy@cogr.edu.

Sincerely,

A handwritten signature in blue ink that reads "Wendy D. Streit". The signature is fluid and cursive, with the first and last names being more prominent.

Wendy D. Streit
President