

DEPARTMENT OF EDUCATION

34 CFR Parts 612 and 686

[Docket ID ED-2014-OPE-0057]

RIN 1840-AD07

Teacher Preparation Issues

AGENCY: Office of Postsecondary Education, Department of Education.**ACTION:** Final regulations.

SUMMARY: The Secretary establishes new regulations to implement requirements for the teacher preparation program accountability system under title II of the Higher Education Act of 1965, as amended (HEA), that will result in the collection and dissemination of more meaningful data on teacher preparation program quality (title II reporting system). The Secretary also amends the regulations governing the Teacher Education Assistance for College and Higher Education (TEACH) Grant program under title IV of the HEA to condition TEACH Grant program funding on teacher preparation program quality and to update, clarify, and improve the current regulations and align them with title II reporting system data.

DATES: The regulations in 34 CFR part 612 are effective November 30, 2016. The amendments to part 686 are effective on July 1, 2017, except for amendatory instructions 4.A., 4.B., 4.C.iv., 4.C.x. and 4.C.xi., amending 34 CFR 686.2(d) and (e), and amendatory instruction 6, amending 34 CFR 686.11, which are effective on July 1, 2021.

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SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of This Regulatory Action

Section 205 of the HEA requires States and institutions of higher education (IHEs) annually to report on various characteristics of their teacher preparation programs, including an assessment of program performance. These reporting requirements exist in part to ensure that members of the public, prospective teachers and employers (districts and schools), and

the States, IHEs, and programs themselves have accurate information on the quality of these teacher preparation programs. These requirements also provide an impetus to States and IHEs to make improvements where they are needed. Thousands of novice teachers enter the profession every year¹ and their students deserve to have well-prepared teachers.

Research from States such as Tennessee, North Carolina, and Washington indicates that some teacher preparation programs report statistically significant differences in the student learning outcomes of their graduates.² Statutory reporting requirements on teacher preparation program quality for States and IHEs are broad. The Department's existing title II reporting system framework has not, however, ensured sufficient quality feedback to various stakeholders on program performance. A U.S. Government Accountability Office (GAO) report found that some States are not assessing whether teacher preparation programs are low-performing, as required by law, and so prospective teachers may have difficulty identifying low-performing teacher preparation programs, possibly resulting in teachers who are not fully prepared to educate children.³ In addition, struggling teacher preparation programs may not receive the technical assistance they need and, like the teaching candidates themselves, school districts, and other stakeholders, will not be able to make informed decisions.

Moreover, section 205 of the HEA requires States to report on the criteria they use to assess whether teacher preparation programs are low-performing or at-risk of being low-performing, but it is difficult to identify programs in need of remediation or closure because few of the reporting requirements ask for information indicative of program quality. The GAO report noted that half the States said

current title II reporting system data were "slightly useful," "neither useful nor not useful," or "not useful"; over half the teacher preparation programs surveyed said the data were not useful in assessing their programs; and none of the surveyed school district staff said they used the data.⁴ The Secretary is committed to ensuring that the measures by which States judge the quality of teacher preparation programs reflect the true quality of the programs and provide information that facilitates program improvement and, by extension, improvement in student achievement.

The final regulations address shortcomings in the current system by defining the indicators of quality that a State must use to assess the performance of its teacher preparation programs, including more meaningful indicators of program inputs and program outcomes, such as the ability of the program's graduates to produce gains in student learning⁵ (understanding that not all students will learn at the same rate). The final regulations build on current State data systems and linkages and create a much-needed feedback loop to facilitate program improvement and provide valuable information to prospective teachers, potential employers, and the general public.

The final regulations also link assessments of program performance under HEA title II to eligibility for the Federal TEACH Grant program. The TEACH Grant program, authorized by section 420M of the HEA, provides grants to eligible IHEs, which, in turn, use the funds to provide grants of up to \$4,000 annually to eligible teacher preparation candidates who agree to serve as full-time teachers in high-need fields at low-income schools for not less than four academic years within eight years after completing their courses of study. If a TEACH Grant recipient fails to complete his or her service obligation, the grant is converted into a Federal Direct Unsubsidized Stafford Loan that must be repaid with interest.

Pursuant to section 420L(1)(A) of the HEA, one of the eligibility requirements for an institution to participate in the TEACH Grant program is that it must provide high-quality teacher preparation. However, of the 38 programs identified by States as "low-performing" or "at-risk," 22 programs were offered by IHEs participating in the TEACH Grant program. The final

¹ U.S. Department of Education, Digest of Education Statistics (2013). Public and private elementary and secondary teachers, enrollment, pupil/teacher ratios, and new teacher hires: Selected years, fall 1955 through fall 2023 [Data File]. Retrieved from: http://nces.ed.gov/ipeds/data/digest/d13/tables/dt13_208.20.asp.

² See Report Card on the Effectiveness of Teacher Training Programs, Tennessee 2014201420142014 Report Card. (n.d.). Retrieved from: www.tn.gov/thec/article/report-card; Goldhaber, D., & Liddle, S. (2013). The Gateway to the Profession: Assessing Teacher Preparation Programs Based on Student Achievement. *Economics of Education Review*, 34, 29-44.

³ See U.S. Government Accountability Office (GAO) (2015). Teacher Preparation Programs: Education Should Ensure States Identify Low-Performing Programs and Improve Information-Sharing. GAO-15-598. Washington, DC. Retrieved from: <http://gao.gov/products/GAO-15-598>. (Hereafter referred to as "GAO.")

⁴ GAO at 26.

⁵ Rivkin, S. G., Hanushek, E. A., & Kain, J. F. (2005). Teachers, schools, and academic achievement. *Econometrica*, 73(2), 417-458. <http://doi.org/10.1111/j.1468-0262.2005.00584.x>.

regulations limit TEACH Grant eligibility to only those programs that States have identified as “effective” or higher in their assessments of program performance under HEA title II.

Summary of the Major Provisions of This Regulatory Action

The final regulations—

- Establish necessary definitions and requirements for IHEs and States related to the quality of teacher preparation programs, and require States to develop measures for assessing teacher preparation performance.

- Establish indicators that States must use to report on teacher preparation program performance, to help ensure that the quality of teacher preparation programs is judged on reliable and valid indicators of program performance.

- Establish the areas States must consider in identifying teacher preparation programs that are low-performing and at-risk of being low-performing, the actions States must take with respect to those programs, and the consequences for a low-performing program that loses State approval or financial support. The final regulations also establish the conditions under which a program that loses State approval or financial support may regain its eligibility for title IV, HEA funding.

- Establish a link between the State’s classification of a teacher preparation program’s performance under the title II reporting system and that program’s identification as “high-quality” for TEACH Grant eligibility purposes.

- Establish provisions that allow TEACH Grant recipients to satisfy the requirements of their agreement to serve by teaching in a high-need field that was designated as high-need at the time the grant was received.

- Establish conditions that allow TEACH Grant recipients to have their service obligations discharged if they are totally and permanently disabled. The final regulations also establish conditions under which a student who had a prior service obligation discharged due to total and permanent disability may receive a new TEACH Grant.

Costs and Benefits

The benefits, costs, and transfers related to the regulations are discussed in more detail in the *Regulatory Impact Analysis* (RIA) section of this document. Significant benefits of the final regulations include improvements to the HEA title II accountability system that will enable prospective teachers to make more informed choices about their enrollment in a teacher preparation

program, and will enable employers of prospective teachers to make more informed hiring decisions. Further, the final regulations will create incentives for States and IHEs to monitor and continuously improve the quality of their teacher preparation programs. Most importantly, the final regulations will help support elementary and secondary school students because the changes will lead to better prepared, higher quality teachers in classrooms, including for students in high-need schools and communities, who are disproportionately taught by less experienced teachers.

The net budget impact of the final regulations is approximately \$0.49 million in reduced costs over the TEACH Grant cohorts from 2016 to 2026. We estimate that the total cost annualized over 10 years of the final regulations is between \$27.5 million and \$27.7 million (see the Accounting Statement section of this document).

On December 3, 2014, the Secretary published a notice of proposed rulemaking (NPRM) for these parts in the **Federal Register** (79 FR 71820). The final regulations contain changes from the NPRM, which are fully explained in the Analysis of Comments and Changes section of this document. Some commenters requested clarification regarding how the proposed State reporting requirements would affect teacher preparation programs provided through distance education and TEACH Grant eligibility for students enrolled in teacher preparation programs provided through distance education. In response to these comments, on April 1, 2016, the Department published a supplemental notice of proposed rulemaking (Supplemental NPRM) in the **Federal Register** (81 FR 18808) that reopened the public comments period for 30 days solely to seek comment on those specific issues. The Department specifically requested on public comments on issues related to reporting by States on teacher preparation programs provided through distance education, and TEACH Grant eligibility requirements for teacher preparation programs provided through distance education. The comment period for the Supplemental NPRM closed on May 2, 2016.

Public Comment: In response to our invitation in the December 3, 2014, NPRM, approximately 4,800 parties submitted comments on the proposed regulations. In response to our invitation in the Supplemental NPRM, the Department received 58 comments.

We discuss substantive issues under the sections of the proposed regulations to which they pertain. Generally, we do

not address technical or other minor changes.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the regulations since publication of the NPRM and the Supplemental NPRM follows.

Part 612—Title II Reporting System

Subpart A—Scope, Purpose, and Definitions

Section 612.1 Scope and Purpose

Statutory Authority

Comments: A number of commenters raised concerns about whether the Department has authority under the HEA to issue these regulations. In this regard, several commenters asserted that the Department does not have the statutory authority to require States to include student learning outcomes, employment outcomes, and survey outcomes among the indicators of academic content knowledge and teaching skills that would be included in the State’s report card under § 612.5. Commenters also claimed that the HEA does not authorize the Department to require States, in identifying low-performing or at-risk teacher preparation programs, to use those indicators of academic content knowledge and teaching skills as would be required under § 612.6. These commenters argued that section 207 of the HEA provides that levels of performance shall be determined solely by the State, and that the Department may not provide itself authority to mandate these requirements through regulations when the HEA does not do so.

Commenters argued that only the State may determine whether to include student academic achievement data (and by inference our other proposed indicators of academic content knowledge and teaching skills) in their assessments of teacher preparation program performance. One commenter contended that the Department’s attempt to “shoehorn” student achievement data into the academic content knowledge and teaching skills of students enrolled in teacher preparation programs (section 205(b)(1)(F)) would render meaningless the language of section 207(a) that gives the State the authority to establish levels of performance, and what those levels contain. These commenters argued that, as a result, the HEA prohibits the Department from requiring States to use any particular indicators. Other commenters argued that such State authority also flows from section 205(b)(1)(F) of the HEA, which provides

that, in the State Report Card (SRC), the State must include a description of the method of assessing teacher preparation program performance. This includes indicators of the academic content knowledge and teaching skills of the students enrolled in such programs.

Commenters also stated that the Department does not have the authority to require that a State's criteria for assessing the performance of any teacher preparation program include the indicators of academic content knowledge and teaching skills, including, "in significant part," student learning outcomes and employment outcomes for high-need schools. See proposed §§ 612.6(a)(1) and 612.4(b)(1). Similar concerns were expressed with respect to proposed § 612.4(b)(2), which provided that a State could determine that a teacher preparation program was effective (or higher) only if the program was found to have "satisfactory or higher" student learning outcomes.

Discussion: Before we respond to the comments about specific regulations and statutory provisions, we think it would be helpful to outline the statutory framework under which we are issuing these regulations. Section 205(a) of the HEA requires that each IHE that provides a teacher preparation program leading to State certification or licensure and that enrolls students who receive HEA student financial assistance report on a statutorily enumerated series of data elements for the programs it provides. Section 205(b) of the HEA requires each State that receives funds under the HEA to provide to the Secretary and make widely available to the public information on, among other things, the quality of traditional and alternative route teacher preparation programs that includes not less than the statutorily enumerated series of data elements. The State must do so in a uniform and comprehensible manner, conforming to definitions and methods established by the Secretary. Section 205(c) of the HEA directs the Secretary to prescribe regulations to ensure the validity, reliability, accuracy, and integrity of the data submitted. Section 206(b) requires that IHEs provide assurance to the Secretary that their teacher training programs respond to the needs of LEAs, are closely linked with the instructional decisions novice teachers confront in the classroom, and prepare candidates to work with diverse populations and in urban and rural settings, as applicable. Section 207(a) of the HEA provides that in order to receive funds under the HEA, a State must conduct an assessment to identify low-performing teacher preparation programs in the State, and help those

programs through provision of technical assistance. Section 207(a) further provides that the State's report identify programs that the State determines to be low-performing or at risk of being low-performing, and that levels of performance are to be determined solely by the State.

The proposed regulations, like the final regulations, reflect the fundamental principle and the statutory requirement that the assessment of teacher preparation program performance must be conducted by the State, with criteria the State establishes and levels of differentiated performance that are determined by the State. Section 205(b)(1)(F) of the HEA provides that a State must include in its report card a description of its criteria for assessing the performance of teacher preparation programs within IHEs in the State and that those criteria must include indicators of the academic content knowledge and teaching skills of students enrolled in such programs. Significantly, section 205(b)(1) further provides that the State's report card must conform with definitions and methods established by the Secretary, and section 205(c) authorizes the Secretary to prescribe regulations to ensure the reliability, validity, integrity, and accuracy of the data submitted in the report cards.

Consistent with those statutory provisions, § 612.5 establishes the indicators States must use to comply with the reporting requirement in section 205(b)(1)(F), namely by having States include in the report card their criteria for program assessment and the indicators of academic content knowledge and teaching skills that they must include in those criteria. While the term "teaching skills" is defined in section 200(23) of the HEA, the definition is complex and the statute does not indicate what are appropriate indicators of academic content knowledge and teaching skills of those who complete teacher preparation programs. Thus, in § 612.5, we establish reasonable definitions of these basic, but ambiguous statutory phrases in an admittedly complex area—how States may reasonably assess the performance of their teacher preparation programs—so that the conclusions States reach about the performance of individual programs are valid and reliable in compliance with the statute. We discuss the reasonableness of the four general indicators of academic content knowledge and teaching skills that the Secretary has established in § 612.5 later in this preamble under the heading *What indicators must a State use to report on teacher preparation program*

performance for purposes of the State report card? Ultimately though, section 205(b) clearly permits the Secretary to establish definitions for the types of information that must be included in the State report cards, and, in doing so, complements the Secretary's general authority to define statutory phrases that are ambiguous or require clarification.

The provisions of § 612.5 are also wholly consistent with section 207(a) of the HEA. Section 207(a) provides that States determine the levels of program performance in their assessments of program performance and discusses the criteria a State "may" include in those levels of performance. However, section 207(a) does not negate the basic requirement in section 205(b) that States include indicators of academic content knowledge and teaching skills within their program assessment criteria or the authority of the Secretary to establish definitions for report card elements. Moreover, the regulations do not limit a State's authority to establish, use, and report other criteria that the State determines are appropriate for generating a valid and reliable assessment of teacher preparation program performance. Section 612.5(b) of the regulations expressly permits States to supplement the required indicators with other indicators of a teacher's effect on student performance, including other indicators of academic content and knowledge and teaching skills, provided that the State uses the same indicators for all teacher preparation programs in the State. In addition, working with stakeholders, States are free to determine how to apply these various criteria and indicators in order to determine, assess, and report whether a preparation program is low-performing or at-risk of being low-performing.

We appreciate commenters' concerns regarding the provisions in §§ 612.4(b)(1) and (b)(2) and 612.6(b)(1) regarding weighting and consideration of certain indicators. Based on consideration of the public comments and the potential complexity of these requirements, we have removed these provisions from the final regulations. While we have taken this action, we continue to believe strongly that providing significant weight to these indicators when determining a teacher preparation program's level of performance is very important. The ability of novice teachers to promote positive student academic growth should be central to the missions of all teacher preparation programs, and having those programs focus on producing well-prepared novice

teachers who work and stay in high-need schools is critical to meeting the Nation's needs. Therefore, as they develop their measures and weights for assessing and reporting the performance of each teacher preparation program in their SRCs, we strongly encourage States, in consultation with their stakeholders, to give significant weight to these indicators.

Changes: We have revised §§ 612.4(b)(1) and 612.6(a)(1) to remove the requirement for States to include student learning outcomes and employment outcomes, "in significant part," in their use of indicators of academic content knowledge and teaching skills as part of their criteria for assessing the performance of each teacher preparation program. We also have revised § 612.4(b)(2) to remove the requirement that permitted States to determine that a teacher preparation program was effective (or higher quality) only if the State found the program to have "satisfactory or higher" student learning outcomes.

Comments: Several commenters objected to the Department's proposal to establish four performance levels for States' assessment of their teacher preparation programs. They argued that section 207(a), which specifically requires States to report those programs found to be either low-performing or at-risk of being low-performing, establishes the need for three performance levels (low-performing, at-risk of being low-performing, and all other programs) and that the Department lacks authority to require reporting on the four performance levels proposed in the NPRM, *i.e.*, those programs that are "low-performing," "at-risk," "exceptional," and everything else. These commenters stated that these provisions of the HEA give to the States the authority to determine whether to establish more than three performance levels.

Discussion: Section 205(b) of the HEA provides that State reports "shall include not less than the following," and this provision authorizes the Secretary to add reporting elements to the State reports. It was on this basis that we proposed, in § 612.4(b)(1), to supplement the statutorily required elements to require States, when making meaningful differentiation in teacher preparation program performance, to use at least four performance levels, including exceptional. While we encourage States to identify programs that are exceptional in order to recognize and celebrate outstanding programs, and so that prospective teachers and their employers know of them and others may learn from them,

in consideration of comments that urged the Secretary not to require States to report a fourth performance level and other comments that expressed concerns about overall implementation costs, we are not adopting this proposal in the final regulations.

Changes: We have revised § 612.4(b)(1) to remove the requirement for States to rate their teacher preparation programs using the category "exceptional." We have also removed the definition of "exceptional teacher preparation program" from the Definitions section in § 612.2.

Comments: Several commenters raised concerns about whether the provisions of § 612.6 are consistent with section 205(b)(2) of the HEA, which prohibits the Secretary from creating a national list or ranking of States, institutions, or schools using the scaled scores required under section 205. Some of these commenters acknowledged the usefulness of a system for public information on teacher preparation. However, the commenters argued that, if these regulations are implemented, the Federal government would instead be creating a program rating system in violation of section 205(b)(2).

Commenters also stated that by mandating a system for rating teacher preparation programs, including the indicators by which teacher preparation programs must be rated, what a State must consider in identifying low-performing or at-risk teacher preparation programs, and the actions a State must take with respect to low-performing programs (proposed §§ 612.4, 612.5, and 612.6), the Federal government is impinging on the authority of States, which authorize, regulate, and approve IHEs and their teacher preparation programs.

Discussion: Although section 207(a) of the HEA expressly requires States to include in their SRCs a list of programs that they have identified as low-performing or at-risk of being low-performing, the regulations do not in any other way require States to specify or create a list or ranking of institutions or programs and the Department has no intention of requiring States to do so. Nor will the Department be creating a national list or ranking of States, institutions, or teacher preparation programs. Thus, there is no conflict with section 205(b)(2).

As we discussed in response to the prior set of comments, these regulations establish definitions for terms provided in title II of the HEA in order to help ensure that the State and IHE reporting system meet its purpose. In authorizing the Secretary to define statutory terms and establish reporting methods needed

to properly implement the title II reporting system, neither Congress nor the Department is abrogating State authority to authorize, regulate, and approve IHEs and their teacher preparation programs. Finally, in response to the comments that proposed §§ 612.4, 612.5, and 612.6 would impermissibly impinge on the authority of States in terms of actions they must take with respect to low-performing programs, we note that the regulations do little more than clarify the sanctions that Congress requires in section 207(b) of the HEA. Those sanctions address the circumstances in which students enrolled in a low-performing program may continue to receive or regain Federal student financial assistance, and thus the Federal government has a direct interest in the subject.

Changes: None.

Comments: One commenter contended that Federal law provides no authority to compel LEAs to develop the criteria and implement the collection and reporting of student learning outcome data, and that there is little that the commenter's State can do to require LEA compliance with those reporting requirements.

Discussion: Section 205(b) of the HEA requires all States receiving HEA funds to provide the information the law identifies "in a uniform and comprehensible manner that conforms with the definitions and methods established by the Secretary." These regulations place responsibility for compliance upon the States, not the LEAs.

Since all LEAs stand to benefit from the success of the new reporting system through improved transparency and information about the quality of teacher preparation programs from which they may recruit and hire new teachers, we assume that all LEAs will want to work with their States to find manageable ways to implement the regulations. Moreover, without more information from the commenter, we cannot address why a particular State would not have the authority to insist that an LEA provide the State with the information it needs to meet these reporting requirements.

Changes: None.

Federal-State-Institution Relationship, Generally

Comments: Many commenters commented generally that the proposed regulations are an example of Federal overreach and represent a profound and improper shift in the historic relationship among institutions, States, school districts, accrediting agencies, and the Federal government in the area

of teacher preparation and certification. For example, one commenter stated that the proposal threatens the American tradition of Federal non-interference with academic judgments, and makes the Department the national arbiter of what teacher preparation programs should teach, who they should teach, and how they should teach.

Commenters also contended that the proposed regulations impermissibly interfere with local and State control and governance by circumventing States' rights delegated to local school districts and the citizens of those districts to control the characteristics of quality educators and to determine program approval.

Discussion: The need for teacher preparation programs to produce teachers who can adequately and effectively teach to the needs of the Nation's elementary and secondary school students is national in scope and self-evident. Congress enacted the HEA title II reporting system as an important tool to address this need. Our final regulations are intended to give the public confidence that, as Congress anticipated when it enacted sections 205(b) and 207 of the HEA, States have reasonably determined whether teacher preparation programs are, or are not, meeting the States' expectations for their performance. While the regulations provide for use of certain minimum indicators and procedures for determining and reporting program performance, they provide States with a substantial amount of discretion in how to measure these indicators, what additional indicators a State may choose to add, and how to weight and combine these indicators and criteria into an overall assessment of a teacher preparation program's performance. Thus, the final regulations are consistent with the traditional importance of State decision-making in the area of evaluating educational performance. The public, however, must have confidence that the procedures and criteria that each State uses to assess program performance and to report programs as low-performing or at-risk are reasonable and transparent. Consistent with the statutory requirement that States report annually to the Secretary and to the public "in a uniform and comprehensible manner that conforms to the definitions and methods established by the Secretary," the regulations aim to help ensure that each State report meets this basic test.

We disagree with comments that allege that the regulations reflect overreach by the Federal government into the province of States regarding the approval of teacher preparation

programs and the academic domain of institutions that conduct these programs. The regulations do not constrain the academic judgments of particular institutions, what those institutions should teach in their specific programs, which students should attend those programs, or how those programs should be conducted. Nor do they dictate which teacher preparation programs States should approve or should not approve. Rather, by clarifying limited areas in which sections 205 and 207 of the HEA are unclear, the regulations implement the statutory mandate that, consistent with definitions and reporting methods the Secretary establishes, States assess the quality of the teacher preparation programs in their State, identify those that are low-performing or at-risk of being low-performing, and work to improve the performance of those programs.

With the changes we are making in these final regulations, the system for determining whether a program is low-performing or at-risk of being low-performing is unarguably a State-determined system. Specifically, as noted above, in assessing and reporting program performance, each State is free to (1) adopt and report other measures of program performance it believes are appropriate, (2) use discretion in how to measure student learning outcomes, employment outcomes, survey outcomes, and minimum program characteristics, and (3) determine for itself how these indicators of academic content knowledge and teaching skills and other criteria a State may choose to use will produce a valid and reliable overall assessment of each program's performance. Thus, the assessment system that each State will use is developed by the State, and does not compromise the ability of the State and its stakeholders to determine what is and is not a low-performing or at-risk teacher preparation program.

Changes: None.

Constitutional Issues

Comments: One commenter stated that the proposed regulations amounted to a coercive activity that violates the U.S. Constitution's Spending Clause (*i.e.*, Article I, Section 8, Clause 1 of the U.S. Constitution). The commenter argued that sections 205 and 207 of the HEA are grounded in the Spending Clause and Spending Clause jurisprudence, including cases such as *Arlington C. Sch. Dist. Bd. of Educ. v. Murphy*, 548 U.S. 291 (2006), which provides that States are not bound by requirements of which they have no clear notice. In particular, the

commenter asserted that, in examining the text of the statute in order to decide whether to accept Federal financial assistance, a State would not have clear notice that it would be required to commit substantial amounts of funds to develop the infrastructure required to include student learning outcome data in its SRC or include student learning outcomes in its evaluation of teacher preparation programs. Some commenters stated that the proposed regulations violate the Tenth Amendment to the U.S. Constitution.

Discussion: Congress' authority to enact the provisions in title II of the HEA governing the State reporting system flows from its authority to "... provide for general Welfare of the United States." Article I, Section 8, Clause 1 (commonly referred to as Congress' "spending authority"). Under that authority, Congress authorized the Secretary to implement the provisions of sections 205 through 207. Thus, the regulations do not conflict with Congress' authority under the Spending Clause. With respect to cases such as *Arlington C. Sch. Dist. Bd. of Educ. v. Murphy*, States have full notice of their responsibilities under the reporting system through the rulemaking process the Department has conducted under the Administrative Procedure Act and the General Education Provisions Act to develop these regulations.

We also do not perceive a legitimate Tenth Amendment issue. The Tenth Amendment provides in pertinent part that powers not delegated to the Federal government by the Constitution are reserved to the States. Congress used its spending authority to require institutions that enroll students who receive Federal student financial assistance in teacher preparation programs, and States that receive HEA funds, to submit information as required by the Secretary in their institutional report cards (IRCs) and SRCs. Thus, the Secretary's authority to define the ambiguous statutory term "indicators of academic content knowledge and teaching skills" to include the measures the regulations establish, coupled with the authority States have under section 205(b)(1)(F) of the HEA to establish other criteria with which they assess program performance, resolves any claim that the assessment of program performance is a matter left to the States under the Tenth Amendment.

Changes: None.

Unfunded Mandates

Comments: Some commenters stated that the proposed regulations would amount to an unfunded mandate, in that they would require States, institutions

with teacher preparation programs, and public schools to bear significant implementation costs, yet offer no Federal funding to cover them. To pay for this unfunded mandate, several commenters stated that costs would be passed on to students via tuition increases, decreases in funding for higher education, or both.

Discussion: These regulations do not constitute an unfunded mandate. Section 205(b) makes reporting “in a uniform and comprehensible manner that conforms with the definitions and methods established by the Secretary” a condition of the State’s receipt of HEA funds. And, as we have stated, the regulations implement this statutory mandate.

Changes: None.

Loss of Eligibility To Enroll Students Who Receive HEA-Funded Student Financial Aid

Comments: Many commenters stated that the Department lacks authority to establish Federally defined performance criteria for the purpose of determining a teacher preparation program’s eligibility for student financial aid under title IV of the HEA. Commenters expressed concern that the Department is departing from the current model, in which the Department determines institutional eligibility for title IV student aid, to a model in which this function would be outsourced to the States. While some commenters acknowledged that, under the HEA, a teacher preparation program loses its title IV eligibility if its State decides to withdraw approval or financial support, commenters asserted that the HEA does not intend for this State determination to be coupled with a prescriptive Federal mandate governing how the determination should be made. A number of commenters also stated that the regulations would result in a process of determining eligibility for Federal student aid that will vary by State.

Similarly, some commenters stated that the proposed requirements in § 612.8(b)(1) for regaining eligibility to enroll students who receive title IV aid exceed the statutory authority in section 207(b)(4) of the HEA, which provides that a program is reinstated upon a demonstration of improved performance, as determined by the State. Commenters expressed concern that the proposed regulations would shift this responsibility from the State to the Federal government, and stated that teacher preparation programs could be caught in limbo. They argued that if a State had already reinstated funding and identified that a program had improved performance, the program’s ability to

enroll students who receive student financial aid would be conditioned on the Secretary’s approval. The commenters contended that policy changes as significant as these should come from Congress, after scrutiny and deliberation of a reauthorized HEA.

Discussion: Section 207(b) of the HEA states, in relevant part:

Any teacher preparation program from which the State has withdrawn the State’s approval, or terminated the State’s financial support, due to the low performance of the program based upon the State assessment described in subsection (a)—

(1) Shall be ineligible for any funding for professional development activities awarded by the Department;

(2) May not be permitted to accept or enroll any student who receives aid under title IV in the institution’s teacher preparation program;

(3) Shall provide transitional support, including remedial services if necessary, for students enrolled at the institution at the time of termination of financial support or withdrawal of approval; and

(4) Shall be reinstated upon demonstration of improved performance, as determined by the State.

Sections 612.7 and 612.8 implement this statutory provision through procedures that mirror existing requirements governing termination and reinstatement of student financial support under title IV of the HEA. As noted in the preceding discussion, our regulations do not usurp State authority to determine how to assess whether a given program is low-performing, and our requirement that States do so using, among other things, the indicators of novice teachers’ academic content knowledge and teaching skills identified in § 612.5 is consistent with title II of the HEA.

Consistent with section 207(a) of the HEA, a State determines a teacher preparation program’s performance level based on the State’s use of those indicators and any other criteria or indicators the State chooses to use to measure the overall level of the program’s performance. In addition, consistent with section 207(b), the loss of eligibility to enroll students receiving Federal student financial aid does not depend upon a Department decision. Rather, the State determines whether the performance of a particular teacher preparation program is so poor that it withdraws the State’s approval of, or terminates the State’s financial support for, that program. Each State may use a different decision model to make this determination, as contemplated by section 207(b).

Commenters’ objections to our proposal for how a program subject to section 207(b) may regain eligibility to enroll students who receive title IV aid are misplaced. Section 207(b)(4) of the HEA provides that a program found to be low-performing is reinstated upon the State’s determination that the program has improved, which presumably would need to include the State’s reinstatement of State approval or financial support, since otherwise the institution would continue to lose its ability to accept or enroll students who receive title IV aid in its teacher preparation programs. However, the initial loss of eligibility to enroll students who receive title IV aid is a significant event, and we believe that Congress intended that section 207(b)(4) be read and implemented not in isolation, but rather in the context of the procedures established in 34 CFR 600.20 for reinstatement of eligibility based on the State’s determination of improved performance.

Changes: None.

Relationship to Department Waivers Under ESEA Flexibility

Comments: A number of commenters stated that the proposed regulations inappropriately extend the Federal requirements of the Department’s Elementary and Secondary Education Act (ESEA) flexibility initiative to States that have either chosen not to seek a waiver of certain ESEA requirements or have applied for a waiver but not received one. The commenters argued that requiring States to assess all students in non-tested grades and subjects (*i.e.*, those grades and subjects for which testing is not required under title I, part A of the ESEA)—a practice that is currently required only in States with ESEA flexibility or in States that have chosen to participate in the Race to the Top program—sets a dangerous precedent.

Discussion: While the regulations are similar to requirements the Department established for States that received ESEA flexibility or Race to the Top grants regarding linking data on student growth to individual teachers of non-tested grades and subjects under ESEA title I, part A, they are independent of those requirements. While section 4(c) of the Every Student Succeeds Act (ESSA)⁶ ends conditions of waivers granted under ESEA flexibility on August 1, 2016, States that received ESEA flexibility or a Race to the Top grant may well have a head start in

⁶ ESSA, which was signed into law in December 2015 (*e.g.*, after the NPRM was published), reauthorizes and amends the ESEA.

implementing systems for linking academic growth data for elementary and secondary school students to individual novice teachers, and then linking data on these novice teachers to individual teacher preparation programs. However, we believe that all States have a strong interest and incentive in finding out whether each of their teacher preparation programs is meeting the needs of their K–12 students and the expectations of their parents and the public. We therefore expect that States will seek to work with other stakeholders to find appropriate ways to generate the data needed to perform the program assessments that these regulations implementing section 205 of the HEA require.

Changes: None.

Consistency With State Law and Practice

Comments: A number of commenters expressed concerns about whether the proposed regulations were consistent with State law. Some commenters stated that California law prohibits the kind of data sharing between the two State agencies, the California Commission on Teacher Credentialing (CTC) and the California Department of Education (CDE), that would be needed to implement the proposed regulations. Specifically, the commenter stated that section 44230.5 of the California Education Code (CEC) does not allow CTC to release information on credential holders to any entity other than the type of credential and employing district. In addition, the commenter noted that California statutes (sections 44660–44665 of the CEC) authorize each of the approximately 1,800 districts and charter schools to independently negotiate and implement teacher evaluations, so there is no statewide collection of teacher evaluation data. The commenter also noted that current law prohibits employers from sharing teacher evaluation data with teacher preparation programs or with the State if an individual teacher would be identifiable.

Another commenter argued that in various ways the proposed regulations constitute a Federal overreach with regard to what Missouri provides in terms of State and local control and governance. Specifically, the commenter stated that proposed regulations circumvent: The rights of Missouri school districts and citizens under the Missouri constitution to control the characteristics of quality education; the authority of the Missouri legislative process and the State Board of Education to determine program quality; State law, specifically, according to the

commenter Missouri House Bill 1490 limits how school districts can share locally held student data such as student learning outcomes; and the process already underway to improve teacher preparation in Missouri.

Other commenters expressed concern that our proposal to require States to use student learning outcomes, employment outcomes, and survey outcomes, as defined in the proposed regulations, would create inconsistencies with what they consider to be the more comprehensive and more nuanced way in which their States assess teacher preparation program performance and then provide relevant feedback to programs and the institutions that operate them.

Finally, a number of commenters argued that requirements related to indicators of academic content knowledge and teaching skills are unnecessary because there is already an organization, the Council for the Accreditation of Educator Preparation (CAEP), which requires IHEs to report information similar to what the regulations require. These commenters claimed that the reporting of data on indicators of academic content knowledge and teaching skills related to each individual program on the SRC may be duplicative and unnecessary.

Discussion: With respect to comments on the CEC, we generally defer to each State to interpret its own laws. However, assuming that the CTC will play a role in how California would implement these regulations, we do not read section 44230.5 of the CEC to prohibit CTC from releasing information on credential holders to any entity other than the type of credential and employing district, as the commenters state. Rather, the provision requires CTC to “establish a nonpersonally identifiable educator identification number for each educator to whom it issues a credential, certificate, permit, or other document authorizing that individual to provide a service in the public schools.” Moreover, while sections 44660 through 44665 of the CEC authorize each LEA in California to independently negotiate and implement teacher evaluations, we do not read this to mean that California is prohibited from collecting data relevant to the student learning outcomes of novice teachers and link them to the teachers’ preparation program. Commenters did not cite any provision of the CEC that prohibits LEAs from sharing teacher evaluation data with teacher preparation programs or the State if it is done without identifying any individual teachers. We assume that use of the nonpersonally identifiable educator

identification number that section 44230.5 of the CEC directs would provide one way to accomplish this task. Finally, we have reviewed the commenters’ brief description of the employer surveys and teacher entry and retention data that California is developing for use in its assessments of teacher preparation programs. Based on the comments, and as discussed more fully under the subheading *Student Learning Outcomes*, we believe that the final regulations are not inconsistent with California’s approach.

While the commenter who referred to Missouri law raised several broad concerns about purported Federal overreach of the State’s laws, these concerns were very general. However, we note that in previously applying for and receiving ESEA flexibility, the Missouri Department of Elementary and Secondary Education (MDESE) agreed to have LEAs in the State implement basic changes in their teacher evaluation systems that would allow them to generate student growth data that would fulfill the student learning outcomes requirement. In doing so the MDESE demonstrated that it was fully able to implement these types of activities without conflict with State law. Moreover, the regulations address neither how a State or LEA are to determine the characteristics of effective educators, nor State procedures and authority for determining when to approve a teacher preparation program. Nor do the regulations undermine any State efforts to improve teacher preparation; in implementing their responsibilities under sections 205(b) and 207(a) of the HEA, they simply require that, in assessing the level of performance of each teacher preparation program, States examine and report data about the performance of novice teachers the program produces.

Finally, we note that, as enacted, House Bill 1490 specifically directs the Missouri State Board of Education to issue a rule regarding gathering student data in the Statewide Longitudinal Data System in terms of the Board’s need to make certain data elements available to the public. This is the very process the State presumably would use to gather and report the data that these regulations require. In addition, we read House Bill 1490 to prohibit the MDESE, unless otherwise authorized, “to transfer personally identifiable student data”, something that the regulations do not contemplate. Further, we do not read House Bill 1490 as establishing the kind of limitation on LEAs’ sharing student data with the MDESE that the commenter stresses. House Bill 1490 also requires the State Board to ensure

compliance with the Family Educational Rights and Privacy Act (FERPA) and other laws and policies; see our discussion of comment on FERPA and State privacy laws under § 612.4(b)(3)(ii)(E).

We are mindful that a number of States have begun their own efforts to use various methods and procedures to examine how well their teacher preparation programs are performing. For the title II reporting system, HEA provides that State reporting must use common definitions and reporting methods as the Secretary shall determine necessary. While the regulations require all States to use data on student learning outcomes, employment outcomes, survey outcomes, and minimum program characteristics to determine which programs are low-performing or at-risk of being low-performing, States may, after working with their stakeholders, also adopt other criteria and indicators. We also know from the recent GAO report that more than half the States were already using information on program graduates' effectiveness in their teacher preparation program approval or renewal processes and at least 10 others planned to do so—data we would expect to align with these reporting requirements.⁷ Hence, we trust that what States report in the SRCs will complement their own systems of assessing program performance.

Finally, with regard to the work of CAEP, we agree that CAEP may require some institutional reporting that may be similar to the reporting required under the title II reporting system; however, reporting information to CAEP does not satisfy the reporting requirements under title II. Regardless of the information reported to CAEP, States and institutions still have a statutory obligation to submit SRCs and IRCs. The CAEP reporting requirements include the reporting of data associated with student learning outcomes, employment outcomes, and survey outcomes; however, CAEP standards do not require the disaggregation of data for individual teacher preparation programs but this disaggregation is necessary for title II reporting.

Changes: None.

Cost Implications

Comments: A number of commenters raised concerns about the costs of implementing the regulations. They stated that the implementation costs, such as those for the required statewide data systems to be designed, implemented, and refined in the pilot

year, would require States either to take funds away from other programs or raise taxes or fees to comply. The commenters noted that these costs could be passed on to students via tuition increases or result in decreased State funding for higher education, and that doing so would create many other unintended consequences, such as drawing State funding away from hiring of educators, minority-serving institutions, or future innovation, reforms, and accountability initiatives. Commenters also stated that the cost to institutions of implementing the regulations could pull funding away from earning national accreditation.

Some commenters also expressed concern about the costs to States of providing technical assistance to teacher preparation programs that they find to be low-performing, and suggested that those programs could lose State approval or financial support.

Finally, in view of the challenges in collecting accurate and meaningful data on teacher preparation program graduates who fan out across the United States, commenters argued that the Department should find ways to provide financial resources to States and institutions to help them gather the kinds of data the regulations will require.

Discussion: The United States has a critical need to ensure that it is getting a good return on the billions of dollars of public funds it spends producing novice teachers. The teacher preparation program reporting system established in title II of the HEA provides an important tool for understanding whether these programs are making good on this investment. But the system can only serve its purpose if States measure and report a program's performance in a variety of ways—in particular, based on important inputs, such as good clinical education and support, as well as on important outcomes, such as novice teachers' success in improving student performance.

The regulations are designed to achieve these goals, while maintaining State responsibility for deciding how to consider the indicators of academic content knowledge and teaching skills described in § 612.5, along with other relevant criteria States choose to use. We recognize that moving from the current system—in which States, using criteria of their choosing, identified only 39 programs nationally in 2011 as low-performing or at-risk of being low-performing (see the NPRM, 79 FR 71823)—to one in which such determinations are based on meaningful indicators and criteria of program effectiveness is not without cost. We

understand that States will need to make important decisions about how to provide for these costs. However, as explained in the *Regulatory Impact Analysis* section of this document, we concluded both that (1) these costs are manageable, regardless of States' current ability to establish the systems they will need, and (2) the benefits of a system in which the public has confidence that program reporting is valid and reliable are worth those costs.

While providing technical assistance to low-performing teacher preparation programs will entail some costs, § 612.6(b) simply codifies the statutory requirement Congress established in section 207(a) of the HEA and offers examples of what this technical assistance could entail. Moreover, we assume that a State would want to provide such technical assistance rather than have the program continue to be low-performing and so remain at-risk of losing State support (and eligibility to enroll students who receive title IV aid).

Finally, commenters requested that we identify funding sources to help States and IHEs gather the required data on students who, upon completing their programs, do not stay in the State. We encourage States to gather and use data on all program graduates regardless of the State to which they ultimately move. However, given the evident costs of doing so on an interstate basis, the final regulations permit States to exclude these students from their calculations of student learning outcomes, their teacher placement and retention rates and from the employer and teacher survey (see the definitions of teacher placement and retention rate in § 612.2) and provisions governing student learning outcomes and survey outcomes in § 612.5(a)(1)(iii) and (a)(3)(ii).

Changes: None.

Section 612.2 Definitions

Content and Pedagogical Knowledge

Comments: Several commenters requested that we revise the definition of “content and pedagogical knowledge” to specifically refer to a teacher's ability to factor students' cultural, linguistic, and experiential backgrounds into the design and implementation of productive learning experiences. The commenters stated that pedagogical diversity is an important construct in elementary and secondary education and should be included in this definition.

Additional commenters requested that this definition specifically refer to knowledge and skills regarding assessment. These commenters stated that the ability to measure student

⁷ GAO at 13–14.

learning outcomes depends upon a teacher's ability to understand the assessment of such learning and not just from the conveyance and explanation of content.

Another commenter recommended that we specifically mention the distinct set of instructional skills necessary to address the needs of students who are gifted and talented. This commenter stated that there is a general lack of awareness of how to identify and support advanced and gifted learners, and that this lack of awareness has contributed to concerns about how well the Nation's top students are doing compared to top students around the world. The commenter also stated that this disparity could be rectified if teachers were required to address the specific needs of this group of students.

Multiple commenters requested that we develop data definitions and metrics related to the definition of "content and pedagogical knowledge," and then collect related data on a national level. They stated that such a national reporting system would facilitate continuous improvement and quality assurance on a systemic level, while significantly reducing burden on States and programs.

Other commenters recommended that to directly assess for content knowledge and pedagogy, the definition of the term include rating graduates of teacher preparation programs based on a portfolio of the teaching candidates' work over the course of the academic program. These commenters stated that reviewing a portfolio reflecting a recent graduate's pedagogical preparation would be more reliable than rating an individual based on student learning, which cannot be reliably measured.

Discussion: The proposed definition of "content and pedagogical knowledge" reflected the specific and detailed suggestions of a consensus of non-Federal negotiators. We believe that the definition is sufficiently broad to address, in general terms, the key areas of content and pedagogical knowledge that aspiring teachers should gain in their teacher preparation programs.

In this regard, we note that the purpose here is not to offer a comprehensive definition of the term that all States must use, as the commenters appear to recommend. Rather, it is to provide a general roadmap for States to use as they work with stakeholders (see § 612.4(c)) to decide how best to determine whether programs that lack the accreditation referenced in § 612.5(a)(4)(i) will ensure that students have the requisite content and pedagogical knowledge they will

need as teachers before they complete the programs.

For this reason, we believe that requiring States to use a more prescriptive definition or to develop common data definitions and metrics aligned to that definition, as many commenters urged, would create unnecessary costs and burdens. Similarly, we do not believe that collecting this kind of data on a national level through the title II reporting system is worth the significant cost and burden that it would entail. Instead, we believe that States, working in consultation with stakeholders, should determine whether their State systems for evaluating program performance should include the kinds of additions to the definition of content and pedagogical knowledge that the commenters recommend.

We also stress that our definition underscores the need for teacher preparation programs to train teachers to have the content knowledge and pedagogical skills needed to address the learning needs of all students. It specifically refers to the need for a teacher to possess the distinct skills necessary to meet the needs of English learners and students with disabilities, both because students in these two groups face particular challenges and require additional support, and to emphasize the need for programs to train aspiring teachers to teach to the learning needs of the most vulnerable students they will have in their classrooms. While the definition's focus on all students plainly includes students who are gifted and talented, as well as students in all other subgroups, we do not believe that, for purposes of this title II reporting system, the definition of "content and pedagogical skills" requires similar special reference to those or other student groups. However, we emphasize again that States are free to adopt many of the commenters' recommendations. For example, because the definition refers to "effective learning experiences that make the discipline accessible and meaningful for all students," States may consider a teacher's ability to factor students' cultural, linguistic, and experiential backgrounds into the design and implementation of productive learning experiences, just as States may include a specific focus on the learning needs of students who are gifted and talented.

Finally, through this definition we are not mandating a particular method for assessing the content and pedagogical knowledge of teachers. As such, under the definition, States may allow teacher preparation programs to use a portfolio

review to assess teachers' acquisition of content and pedagogical knowledge.

Changes: None.

Employer Survey

Comments: None.

Discussion: The proposed definition of "survey outcomes" specified that a State would be required to survey the employers or supervisors of new teachers who were in their first year of teaching in the State where their teacher preparation program is located. To avoid confusion with regard to teacher preparation programs provided through distance education, in the final regulations we have removed the phrase "where their teacher preparation program is located" from the final definition of "employer survey." In addition to including a requirement to survey those in their first year of teaching in the State and their employers in the "survey outcomes" provision that we have moved to § 612.5(a)(3) of the final regulations, we are including the same clarification in the definitions of "employer survey" and "teacher survey". We also changed the term "new teacher" to "novice teacher" for the reasons discussed in this document under the definition of "novice teacher."

Changes: We have revised the definition of "employer survey" to clarify that this survey is of employers or supervisors of novice teachers who are in their first year of teaching.

Employment Outcomes

Comments: None.

Discussion: Upon review of the proposed regulations, we recognized that the original structure of the regulations could have generated confusion. We are concerned that having a definition for the term "employment outcomes" in § 612.2, when that provision largely serves to operationalize other definitions in the context of § 612.5, was not the clearest way to present these requirements. We therefore are moving the explanations and requirements of those terms into the text of § 612.5(a).

Changes: We have removed the proposed definition of "employment outcomes" from § 612.2, and moved the text and requirements from the proposed definition to § 612.5(a)(2).

Exceptional Teacher Preparation Program

Comments: Many commenters opposed having the regulations define, and having States identify in their SRCs, "exceptional teacher preparation programs", stating that section 207(a) of the HEA only gives the Department

authority to require reporting of three categories of teacher preparation programs: Low-performing, at-risk of being low-performing, and teacher preparation programs that are neither low-performing nor at-risk. A number of commenters noted that some States have used a designation of exceptional and found that the rating did not indicate truly exceptional educational quality. They also stated that teacher preparation programs have used that rating in their marketing materials, and that it may mislead the public as to the quality of the program. In addition, commenters noted that, with respect to the determination of a high-quality teacher preparation program for TEACH Grant program eligibility, it makes no practical difference whether a teacher preparation program is rated as effective or exceptional because eligible students would be able to receive TEACH Grants whether the programs in which they enroll are effective, exceptional, or some other classification above effective.

Discussion: Section 207(a) of the HEA requires that a State identify programs as low-performing or at-risk of being low-performing, and report those programs in its SRC. However, section 205(b) of the HEA authorizes the Secretary to require States to include other information in their SRCs. Therefore, we proposed that States report which teacher preparation programs they had identified as exceptional because we believe the public should know which teacher preparation programs each State has concluded are working very well. We continue to urge States to identify for the public those teacher preparation programs that are indeed exceptional. Nonetheless, based on our consideration of the concerns raised in the comments, and the costs of reporting using this fourth performance level, we have decided to remove this requirement from the final regulations. Doing so has no impact on TEACH Grants because, as commenters noted, an institution's eligibility to offer TEACH Grants is impacted only where a State has identified a teacher preparation program as low-performing or at-risk. Despite these changes, we encourage States to adopt and report on this additional performance level.

Changes: We have removed the proposed definition of "exceptional teacher preparation program," and revised the proposed definition of "effective teacher preparation program" under § 612.2 to mean a teacher preparation program with a level of performance that is higher than low-performing or at-risk. We have also revised § 612.4(b)(1) to remove the

requirement that an SRC include "exceptional" as a fourth teacher preparation program performance level.

High-Need School

Comments: Multiple commenters requested that States be allowed to develop and use their own definitions of "high-need school" so that State systems do not need to be modified to comply with the regulations. These commenters stated that many States had made great strides in improving the quality of teacher preparation programs, and that the definition of "high-need school" may detract from the reforms already in place in those States. In addition, the commenters noted that States are in the best position to define a high-need school since they can do so with better knowledge of State-specific context.

Some commenters suggested, alternatively, that the Department include an additional disaggregation requirement for high-need subject areas. These commenters stated that targeting high-need subject areas would have a greater connection to employment outcomes than would high-need schools and, as such, should be tracked as a separate category when judging the quality of teacher preparation programs.

A number of commenters requested that the definition of high-need school include schools with low graduation rates. Other commenters agreed that this definition should be based on poverty, as defined in section 200(11) of the HEA, but also recommended that a performance component should be included. Specifically, these commenters suggested that high schools in which one-third or more of the students do not graduate on time be designated as high-need schools. Other commenters recommended including geography as an indicator of a school's need, arguing that, in their experience, high schools' urbanicity plays a significant role in determining student success.

Other commenters expressed concerns with using a quartile-based ranking of all schools to determine which schools are considered high need. These commenters stated that such an approach may lead to schools with very different economic conditions being considered high need. For example, a school in one district might fall into the lowest quartile with only 15 percent of students living in poverty while a school in another district would need to have 75 percent of students living in poverty to meet the same designation.

Discussion: Our definition of "high-need school" mirrors the definition of

that term in section 200(11)(A) of the HEA and, we believe, provides sufficient breadth and flexibility for all States to use it to help determine the performance of their teacher preparation programs. Under the definition, all schools that are in an LEA's highest quartile of schools ranked by family need based on measures that include student eligibility for free and reduced price lunch are deemed high-need schools. (We focus here on this measure of poverty because we believe that this is the primary measure on which many LEAs will collect data.) So, too, are schools with high individual family poverty rates measured by large numbers or percentages of students who are eligible for free and reduced price lunches. Hence, for purposes of title II reporting, not only will all schools with sufficiently high family poverty rates be considered high-need schools, but, regardless of the school's level of family poverty level, every LEA in the Nation with four or more schools will have at least one high-need school. The definition therefore eliminates a novice teacher's LEA preference as a factor affecting the placement or retention rate in high-need schools, and thus permits these measures to work well with this definition of high-need school. This would not necessarily be true if we permitted States to adopt their own definitions of this term.

We acknowledge the concern expressed by some commenters that the definition of "high-need school" permits schools in different LEAs (and indeed, depending on the breakdown of an LEA's schools in the highest quartile based on poverty, in the same LEA as well) that serve communities with very different levels of poverty all to be considered high-need. However, for a reporting system that will use placement and retention rates in high-need schools as factors bearing on the performance of each teacher preparation program, States may consider applying significantly greater weight to employment outcomes for novice teachers who work in LEAs and schools that serve high-poverty areas than for novice teachers who work in LEAs and schools that serve low-poverty areas.

Moreover, while we acknowledge that the definition of "high-need school" in section 200(11)(A) of the HEA does not apply to the statutory provisions requiring the submission of SRCs and IRCs, we believe that if we use the term in the title II reporting system it is reasonable that we should give some deference to the definition used elsewhere in title II of the HEA. For reasons provided above, we believe the definition can work well for the

indicators concerning teacher placement and retention rates in high-need schools.

Furthermore, we disagree with the comments that the definition of “high-need school” should include high-need subject areas. As defined in the regulations, a “teacher preparation program” is a program that leads to an initial State teacher certification or licensure in a specific field. Thus, the State’s assessment of a teacher preparation program’s performance already focuses on a specific subject area, including those we believe States would generally consider to be high-need. In addition, maintaining focus on placement of teachers in schools where students come from families with high actual or relative poverty levels, and not on the subject areas they teach in those schools, will help maintain a focus on the success of students who have fewer opportunities. We therefore do not see the benefit of further burdening State reporting by separately carrying into the definition of a “high-need school” as commenters recommend, factors that focus on high-need subjects.

We also disagree that the definition of “high-need school” should include an additional criterion of low graduation rates. While we agree that addressing the needs of schools with low graduation rates is a major priority, we believe the definition of “high-need school” should focus on the poverty level of the area the school serves. The measure is easy to calculate and understand, and including this additional component would complicate the data collection and analysis process for States. However, we believe there is a sufficiently high correlation between schools in high-poverty areas, which our definition would deem high-need, and the schools with low graduation rates on which the commenters desire to have the definition focus. We believe this correlation means that a large proportion of low-performing schools would be included in a definition of high-need schools that focuses on poverty.

Changes: None.

Comments: None.

Discussion: Under paragraphs (i)(B) and (ii) of the definition of “high-need school” in the regulations, the identification of a high-need school may be based, in part, on the percentage of students enrolled in the school that are eligible for free or reduced price school lunch under the Richard B. Russell National School Lunch Act. With the passage of the Healthy, Hunger-Free Kids Act of 2010, the National School Lunch Program (NSLP) now includes a

new universal meal option, the “Community Eligibility Provision” (CEP or Community Eligibility). CEP reduces burden at the household and local level by eliminating the need to obtain eligibility data from families through individual household applications, and permits schools, if they meet certain criteria, to provide meal service to all students at no charge to the students or their families. To be eligible to participate in Community Eligibility, schools must: (1) Have at least 40 percent of their students qualify for free meals through “direct certification”⁸ in the year prior to implementing Community Eligibility; (2) agree to serve free breakfasts and lunches to all students; and, (3) agree to cover, with non-Federal funds, any costs of providing free meals to students above the amounts provided by Federal assistance.

CEP schools are not permitted to use household applications to determine a reimbursement percentage from the USDA. Rather, the USDA determines meal reimbursement for CEP schools based on “claiming percentages,” calculated by multiplying the percentage of students identified through the direct certification data by a multiplier established in the Healthy, Hunger-Free Kids Act of 2010 and set in regulation at 1.6. The 1.6 multiplier provides an estimate of the number of students that would be eligible for free and reduced-price meals in CEP schools if the schools determined eligibility through traditional means, using both direct certification and household applications. If a State uses NSLP data from CEP schools when determining whether schools are high-need schools, it should not use the number of children actually receiving free meals in CEP schools to determine the percentage of students from low-income families because, in those schools, some children receiving free meals live in households that do not meet a definition of low-income. Therefore, States that wish to use NSLP data for purposes of determining the percentage of children from low-income families in schools that are participating in Community Eligibility should use the number of children for whom the LEA is receiving reimbursement from the USDA (direct certification total with the 1.6 multiplier), not to exceed 100 percent of children enrolled. For example, we can consider a school that participates in

Community Eligibility with an enrollment of 1,000 children. The school identifies 600 children through direct certification data as eligible for the NSLP. The school multiplies 600 by 1.6, and that result is 960. The LEA would receive reimbursement through the NSLP for meals for 960 children, or 96 percent of students enrolled. In a ranking of schools in the LEA on the basis of the percentage of students from low-income families, even though 100 percent of students are receiving free meals through NSLP, the school would be ranked on the basis of 96 percent of students from low-income families. The use of claiming percentages for identifying CEP schools as high-need schools, rather than the number of students actually receiving free lunch through NSLP ensures comparability, regardless of an individual school’s decision regarding participation in the program.

Changes: None.

Novice Teacher

Comments: Many commenters expressed concerns about the proposed definition of “new teacher.” These commenters noted that the definition distinguishes between traditional teacher preparation programs and alternative route teacher preparation programs. The commenters argued that, because alternative route teacher preparation programs place their participants as teachers while they are still enrolled, these participants will have already established teacher retention rates by the time they complete their programs. Traditional program participants, on the other hand, are only placed as teachers after earning their credential, leaving their programs at a comparative disadvantage under the indicators of academic content knowledge and teaching skills. Many of these commenters contended that, as a result, comparisons between traditional teacher preparation programs and alternative route teacher preparation programs will be invalid. Others recommended that the word “licensure” be changed to “professional licensure” to alleviate the need for States to compare traditional teacher preparation programs and alternative route teacher preparation programs.

A number of commenters claimed that the proposed definition confused the attainment of certification or licensure with graduation from a program, which is often a precursor for certification or licensure. They stated that the proposed definition was not clear regarding how States would report on recent program completers who are entering the classroom. Others noted that some

⁸ “Direct certification” is a process by which schools identify students as eligible for free meals using data from, among other sources, the Supplemental Nutrition Assistance Program (SNAP) or the Temporary Assistance for Needy Families (TANF) program.

States allow individuals to be employed as full-time teachers for up to five years before obtaining licensure. They contended that reporting all of these categories together would provide misleading statistics on teacher preparation programs.

Other commenters specifically requested that the definition include pre-kindergarten teachers (if a State requires postsecondary education and training for pre-kindergarten teachers), and that pre-kindergarten teachers be reflected in teacher preparation program assessment.

A number of commenters also recommended that the word “recent” be removed from the definition of “new teacher” so that individuals who take time off between completing their teaching degree and obtaining a job in a classroom are still considered to be new teachers. They argued that individuals who take time off to raise a family or who do not immediately find a full-time teaching position should still be considered new teachers if they have not already had full-time teaching experience. Other commenters stated that the term “new teacher” may result in confusion based on State decisions about when an individual may begin teaching. For example, the commenters stated that in Colorado teachers may obtain an alternative license and begin teaching before completing a formal licensure program. As such, new teachers may have been teaching for up to three years at the point that the proposed definition would consider them to be a “new teacher,” and the proposed definition therefore may cause confusion among data entry staff about which individuals should be reported as new teachers. They recommended that we replace the term “new teacher” with the term “employed completer” because the latter more clearly reflects that an individual would need to complete his or her program and have found employment to be included in the reporting requirements.

Discussion: The intent of the proposed definition of “new teacher” was to capture those individuals who have newly entered the classroom and become responsible for student outcomes. Upon review of the public comments, we agree that the proposed definition of “new teacher” is unclear and needs revision.

We understand that many alternative route teacher preparation programs place their participants as teachers while they are enrolled in their programs, and many traditional preparation program participants are only placed after earning their credential. Furthermore, we agree that

direct comparisons between alternative route and traditional teacher preparation programs could be misleading if done without a more complete understanding of the inherent differences between the two types of programs. For example, a recent completer of an alternative route program may actually have several more years of teaching experience than a recent graduate of a traditional teacher preparation program, so apparent differences in their performance may be based more on the specific teacher’s experience than the quality of the preparation program.

In addition, we agree with commenters that the preparation of preschool teachers is a critical part of improving early childhood education, and inclusion of these staff in the assessment of teacher preparation program quality could provide valuable insights. We strongly encourage States that require preschool teachers to obtain either the same level of licensure as elementary school teachers, or a level of licensure focused on preschool or early childhood education, to include preschool teachers who teach in public schools in their assessment of the quality of their teacher preparation programs. However, we also recognize that preschool licensure and teacher evaluation requirements vary among States and among settings, and therefore believe that it is important to leave the determination of whether and how to include preschool teachers in this measure to the States. We hope that States will base their determination on what is most supportive of high-quality early childhood education in their State.

We also agree with commenters that the proposed term “new teacher” may result in confusion based on State decisions about when individuals in an alternative route program have the certification they need to begin teaching, and that, in some cases, these individuals may have taught for up to three years before the proposed definition would consider them to be new teachers. We believe, however, that the term “employed completer” could be problematic for alternative route programs because, while their participants are employed, they may not have yet completed their program.

Likewise, we agree with commenters who expressed concern that our proposed definition of “new teacher” confuses the attainment of certification or licensure with graduation from a program leading to recommendation for certification or licensure.

For all of these reasons, we are removing the term and definition of “new teacher” and replacing it with the

term “novice teacher,” which we are defining as “a teacher of record in the first three years of teaching who teaches elementary or secondary public school students, which may include, at a State’s discretion, preschool students.” We believe this new term and definition more clearly distinguish between individuals who have met all the requirements of a teacher preparation program (recent graduates), and those who have been assigned the lead responsibility for a student’s learning (*i.e.*, a teacher of record as defined in this document) but who may or may not have completed their teacher preparation program. In doing so, we also have adopted language that captures as novice teachers those individuals who are responsible for student outcomes, because these are the teachers on whom a program’s student learning outcomes should focus. We chose a period of three years because we believe this is a reasonable timeframe in which one could consider a teacher to be a novice, and because it is the length of time for which retention rate data will be collected. In this regard, the definition of novice teacher continues to include three cohorts of teachers, but treats the first year of teaching as the first year as a teacher of record regardless of whether the teacher has completed a preparation program (as is the case for most traditional programs) or is still in process of completing it (as is the case for alternate route programs).

Finally, we agree with commenters that we should remove the word “recent” from the definition, and have made this change. As commenters suggest, making this change will ensure that individuals who take time off between completing their teacher preparation program and obtaining a job in a classroom, or who do not immediately find a full-time teaching position, are still included in the definition of “novice teacher.” Therefore, our definition of “novice teacher” does not include the word “recent”; the term instead clarifies that a novice teacher is an individual who is responsible for student outcomes, while still allowing individuals who are recent graduates to be categorized as novice teachers for three years in order to account for delays in placement.

Changes: We have removed the term “new teacher” and replaced it with the term “novice teacher,” which we define as “a teacher of record in the first three years of teaching who teaches elementary or secondary public school students, which may include, at a State’s discretion, preschool students.” See the discussion below regarding the definition of “teacher of record.”

Quality Clinical Preparation

Comments: Commenters provided a number of specific suggestions for revising the proposed definition of “quality clinical preparation.”

Commenters suggested that the definition include a requirement that mentor teachers be “effective.” While our proposed definition did not use the term “mentor teacher,” we interpret the comments as pertaining to the language of paragraph (1) of the proposed definition—the requirement that those LEA-based personnel who provide training be qualified clinical instructors. Commenters also suggested that we eliminate the phrase “at least in part” when referring to the training to be provided by qualified clinical instructors, and that we require the clinical practice to include experience with high-need and high-ability students, as well as the use of data analysis and development of classroom management skills.

Other commenters suggested that the definition require multiple clinical or field experiences, or both, with effective mentor teachers who (1) address the needs of diverse, rural, or underrepresented student populations in elementary and secondary schools, including English learners, students with disabilities, high-need students, and high-ability students, and (2) assess the clinical experiences using a performance-based protocol to demonstrate teacher candidates’ mastery of content and pedagogy.

Some commenters suggested that the definition require that teacher candidates use specific research-based practices in addition to those currently listed in the definition, including data analysis, differentiation, and classroom management. The commenters recommended that all instructors be qualified clinical instructors, and that they ensure that clinical experiences include working with high-need and high-ability students because doing so will provide a more robust and realistic clinical experience.

Commenters further suggested that “quality clinical preparation” use a program model similar to that utilized by many alternative route programs. This model would include significant in-service training and support as a fundamental and required component, alongside an accelerated pre-service training program. Another commenter suggested the inclusion of residency programs in the definition.

Commenters also suggested that the Department adopt, for the title II reporting system, the definitions of the terms “clinical experience” and

“clinical practice” used by CAEP so that the regulatory definitions describe a collaborative relationship between a teacher preparation program and a school district. Commenters explained that CAEP defines “clinical experiences” as guided, hands-on, practical applications and demonstrations of professional knowledge of theory to practice, skills, and dispositions through collaborative and facilitated learning in field-based assignments, tasks, activities, and assessments across a variety of settings. Commenters further explained that CAEP defines “clinical practice” as student teaching or internship opportunities that provide candidates with an intensive and extensive culminating field-based set of responsibilities, assignments, tasks, activities, and assessments that demonstrate candidates’ progressive development of the professional knowledge, skills, and dispositions to be effective educators. Another commenter recommended that we develop common definitions of data and metrics on quality clinical preparation.

Discussion: We agree with the commenters that it is important to ensure that mentor teachers and qualified clinical instructors are effective. Effective instructors play an important role in ensuring that students in teacher preparation programs receive the best possible clinical training if they are to become effective educators. However, we believe that defining the term “quality clinical preparation” to provide that all clinical instructors, whether LEA-based or not, meet specific established qualification requirements and use a training standard that is publicly available (as required by paragraph (1) of our definition) reasonably ensures that students are receiving clinical training from effective instructors.

We agree with the recommendation to remove the phrase “at least in part” from the definition, so that all training must be provided by quality clinical instructors.

We decline to revise the definition to provide that quality clinical preparation specifically include work with high-need or high-ability students, using data analysis and differentiation, and developing classroom management skills. We agree that these are important elements in developing highly effective educators and could be an important part of clinical preparation. However, the purpose of this definition is to highlight general characteristics of quality clinical instruction that must be reflected in how a State assesses teacher preparation program performance,

rather than provide a comprehensive list of elements of quality clinical preparation. We believe that including the additional elements suggested by the commenters would result in an overly prescriptive definition. We note, however, that States are free to supplement this definition with additional criteria for assessing teacher preparation program performance.

We also decline to revise the definition to provide that quality clinical preparation be assessed using a performance-based protocol as a means of demonstrating student mastery of content and pedagogy. While this is a strong approach that States may choose to take, we are not revising the definition to prescribe this particular method because we believe it may in some cases be overly burdensome.

We decline commenters’ recommendation to include significant in-service training and support as a fundamental and required component, alongside an accelerated pre-service training program. Similarly, we reject the suggestion to include residency programs in the definition. Here again, we feel that both of these additional qualifications would result in a definition that is too prescriptive. Moreover, as noted above, this definition is meant to highlight general characteristics of quality clinical instruction that must be reflected in how a State assesses teacher preparation program performance, rather than to provide a comprehensive list of elements of quality clinical preparation.

Furthermore, while we understand why commenters recommended that we use CAEP’s definitions, we do not want to issue an overly prescriptive definition of what is and is not quality clinical preparation, nor do we want to endorse any particular organization’s approach. Rather, we are defining a basic indicator of teacher preparation program performance for programs that do not meet the program accreditation provision in § 612.5(a)(4)(i). However, States are free to build the CAEP definitions into their own criteria for assessing teacher preparation program performance; furthermore, programs may implement CAEP criteria.

We encourage States and teacher preparation programs to adopt research-based practices of effective teacher preparation for all aspects of their program accountability systems. Indeed, we believe the accountability systems that States establish will help programs and States to gather more evidence about what aspects of clinical training and other parts of preparation programs lead to the most successful teachers. However, we decline to develop more

precise regulatory definitions of data and metrics on quality clinical preparation because we feel that these should be determined by the State in collaboration with IHEs, LEAs, and other stakeholders (see § 612.4(c)).

Changes: We have revised the definition of “quality clinical preparation” by removing the phrase “at least in part” to ensure that all training is provided by quality clinical instructors.

Recent Graduate

Comments: Multiple commenters recommended replacing the term “recent graduate” with the term “program completer” to include candidates who have met all program requirements, regardless of enrollment in a traditional teacher preparation program or an alternative route teacher preparation program. In addition, they recommended that States be able to determine the criteria that a candidate must satisfy in order to be considered a program completer.

Other commenters recommended changing the definition of “recent graduate” to limit it to those graduates of teacher preparation programs who are currently credentialed and practicing teachers. The commenters stated that this would avoid having programs with completers who become gainfully employed in a non-education field or enroll in graduate school being penalized when the State determines the program’s performance.

Discussion: We intended the term “recent graduate” to capture those individuals who have met all the requirements of the teacher preparation program within the last three title II reporting years. We recognize that a number of alternative route programs do not use the term “graduate” to refer to individuals who have met those requirements. However, using the term “recent graduate” to encompass both individuals who complete traditional teacher preparation programs and those who complete alternative route programs is simpler than creating a separate term for alternative route participants. Thus, we continue to believe that the term “recent graduate,” as defined, appropriately captures the relevant population for purposes of the regulations.

Furthermore, we decline to amend the definition to include only those individuals who are currently credentialed and practicing teachers. Doing so would create confusion between this term and “novice teacher” (defined elsewhere in this document). The term “novice teacher” is designed to capture individuals who are in their

first three years of teaching, whereas the definition of “recent graduate” is designed to capture individuals who have completed a program, regardless of whether they are teaching. In order to maintain this distinction, we have retained the prohibitions that currently exist in the definitions in the title II reporting system against using recommendation to the State for licensure or becoming a teacher of record as a condition of being identified as a recent graduate.

We are, however, making slight modifications to the proposed definition. Specifically, we are removing the reference to being hired as a full-time teacher and instead using the phrase “becoming a teacher of record.” We do not believe this substantially changes the meaning of “recent graduate,” but it does clarify which newly hired, full-time teachers are to be captured under the definition.

We decline to provide States with additional flexibility in establishing other criteria for making a candidate a program completer because we believe that the revised definition of the term “recent graduate” provides States with sufficient flexibility. We believe that the additional flexibility suggested by the commenters would result in definitions that stray from the intent of the regulations.

Some commenters expressed concern that programs would be penalized if some individuals who have completed them go on to become gainfully employed in a non-education field or enroll in graduate school. We feel that it is important for the public and prospective students to know the degree to which participants in a teacher preparation program do not become teachers, regardless of whether they become gainfully employed in a non-education field. However, we think it is reasonable to allow States flexibility to exclude certain individuals when determining the teacher placement and retention rates (*i.e.*, those recent graduates who have taken teaching positions in another State, or who have enrolled in graduate school or entered military service). For these reasons, we have not adopted the commenters’ recommendation to limit the definition of “recent graduate” to those graduates of teacher preparation programs who are currently credentialed and practicing teachers.

Changes: We have revised the definition of “recent graduate” to clarify that a teacher preparation program may not use the criterion “becoming a teacher of record” when it determines if an individual has met all of the program requirements.

Rigorous Teacher Candidate Exit Qualifications

Comments: One commenter recommended that we remove the reference to entry requirements from the proposed definition of “rigorous teacher entry and exit requirements” because using rigorous entry requirements to assess teacher preparation program performance could compromise the mission of minority-serving institutions, which often welcome disadvantaged students and develop them into profession-ready teachers. Commenters said that those institutions and others seek, in part, to identify potential teacher candidates whose backgrounds are similar to students they may ultimately teach but who, while not meeting purely grade- or test-based entry requirements, could become well-qualified teachers through an effective preparation program.

Commenters recommended adding a number of specific items to the definition of exit qualifications, such as classroom management, differentiated instructional planning, and an assessment of student growth over time.

Another commenter suggested amending the definition to include culturally competent teaching, which the commenter defined as the ability of educators to teach students intellectual, social, emotional, and political knowledge by utilizing their diverse cultural knowledge, prior experiences, linguistic needs, and performance styles. This commenter stated that culturally competent teaching is an essential pedagogical skill that teachers must possess. The commenter also recommended that we include as separate terms and define “culturally competent education” and “culturally competent leadership”. Finally, this commenter requested that we develop guidance on culturally and linguistically appropriate approaches in education.

Discussion: Although overall research findings regarding the effect of teacher preparation program selectivity on student outcomes are generally mixed, some research indicates there is a correlation between admission requirements for teacher preparation programs and the teaching effectiveness of program graduates.⁹ In addition, under our proposed definition, States and programs could define “rigorous entry requirements” in many and varied ways, including through evidence of other skills and characteristics

⁹ See, for example: Henry, G., & Bastian, K. (2015). *Measuring Up: The National Council on Teacher Quality’s Ratings of Teacher Preparation Programs and Measures of Teacher Performance.*

determined by programs to correlate with graduates' teaching effectiveness, such as grit, disposition, or performance-based assessments relevant to teaching. Nonetheless, we understand that prospective teachers who themselves come from high-need schools—and who may therefore bring a strong understanding of the backgrounds of students they may eventually teach—could be disproportionately affected by grade-based or test-based entry requirements. Additionally, because the primary emphasis of the regulations is to ensure that candidates graduate from teacher preparation programs ready to teach, we agree that measures of program effectiveness should emphasize rigorous exit requirements over program entry requirements. Therefore, we are revising the regulations to require only rigorous exit standards.

In our definition of rigorous exit requirements, we identified four basic characteristics that we believe all teacher candidates should possess. Regarding the specific components of rigorous exit requirements that commenters suggested (such as standards-based and differentiated planning, classroom management, and cultural competency), the definition does not preclude States from including those kinds of elements as rigorous exit requirements. We acknowledge that these additional characteristics, including cultural competency, may also be important, but we believe that the inclusion of these additional characteristics should be left to the discretion of States, in consultation with their stakeholders. To the extent that they choose to include them, States would need to develop definitions for each additional element. We also encourage interested parties to bring these suggestions forward to their States in the stakeholder engagement process required of all States in the design of their performance rating systems (see § 612.4(c)). Given that we are not adding cultural competency into the definition of rigorous candidate exit requirements, we are not adding the recommended related definitions or developing guidance on this topic at this time.

In addition, as we reviewed comments, we realized both that the phrase “at a minimum” was misplaced in the sentence and should refer not to the use of an assessment but to the use of validated standards and measures of the candidate's effectiveness, and that the second use of “measures of” in the phrase “measures of candidate effectiveness including measures of curriculum planning” was redundant.

Changes: We have revised the term “rigorous teacher candidate entry and exit qualifications” by removing entry qualifications. We have also revised the language in § 612.5(a)(4)(ii)(C) accordingly. In addition, we have moved the phrase “at a minimum” from preceding “assessment of candidate performance” to preceding “on validated professional teaching standards.” Finally, we have revised the phrase “measures of candidate effectiveness including measures of curriculum planning” to read “measures of candidate effectiveness in curriculum planning.”

Student Achievement in Non-Tested Grades and Subjects

Comments: Multiple commenters opposed the definition of the term “student achievement in non-tested grades and subjects,” and provided different recommendations on how the definition should be revised. Some commenters recommended removing the definition from the regulations altogether, noting that, for some subjects (such as music, art, theater, and physical education), there simply are not effective or valid ways to judge the growth of student achievement by test scores. Others recommended that student achievement in non-tested grades and subjects be aligned to State and local standards. These commenters asserted that alignment with State and local standards will ensure rigor and consistency for non-tested grades and subjects. A number of commenters also recommended that teachers who teach in non-tested subjects should be able to use scores from an already administered test to count toward their effectiveness rating, a policy that some States have already implemented to address student achievement in non-tested subjects.

Discussion: We have adopted the recommendation to remove the definition of “student achievement in non-tested grades and subjects,” and have moved the substance of this definition to the definition of “student growth.” Upon review of comments regarding this definition, as well as comments pertaining to student learning outcomes more generally, we have also altered the requirements in § 612.5(a)(1)(ii) for the calculation of student learning outcomes—specifically by permitting a State to use another State-determined measure relevant to calculating student learning outcomes instead of only student growth or a teacher evaluation measure. We believe that the increased flexibility resulting from these changes sufficiently addresses commenter concerns regarding the definition of “student

achievement in non-tested grades and subjects.” We also believe it is important that the regulations permit States to determine an effective and valid way to measure growth for students in all grades and subjects not covered by section 1111(b)(2222) of the ESEA, as amended by the ESSA, and that the revisions we have made provide sufficient flexibility for States to do so.

Under the revised definition of student growth, States must use measures of student learning and performance, such as students' results on pre-tests and end-of-course-tests, objective performance-based assessments, student learning objectives, student performance on English language proficiency assessments, and other measures of student achievement that are rigorous, comparable across schools, and consistent with State requirements. Further, as a number of commenters recommended that the definition of student achievement in non-tested grades and subjects includes alignment to State and local standards, we feel that this new definition of student growth, in conjunction with altered requirements in the calculation of student learning outcomes, is sufficiently flexible to allow such alignment. Further, a State could adopt the commenters' recommendations summarized above under the revised requirements for the calculation of student learning outcomes and the revised definition of “student growth.”

We note that the quality of individual teachers is not being measured by the student learning outcomes indicator. Rather, it will help measure overall performance of a teacher preparation program through an examination of student growth in the many grades and subjects taught by novice teachers that are not part of the State's assessment system under section 1111(b) of the ESEA, as amended by the ESSA.

Changes: The definition of student achievement in non-tested grades and subjects has been removed. The substance of the definition has been moved to the definition of student growth.

Student Achievement in Tested Grades and Subjects

Comments: A number of commenters opposed the definition of “student achievement in tested grades and subjects” because of its link to ESEA standardized test scores and the definitions used in ESEA flexibility. Commenters found this objectionable because these sources are subject to change, which could present complications in future implementation

of the regulations. Further, the commenters asserted that standardized testing and value-added models (VAM)¹⁰ are not valid or reliable and should not be used to assess teacher preparation programs.

Discussion: We have adopted the recommendation to remove the definition of “student achievement in tested grades and subjects.” While we have moved the substance of this definition to the definition of “student growth,” we have also altered the requirements for the calculation of student learning outcomes upon review of comments related to this definition and comments pertaining to student learning outcomes more generally. We believe that the increased flexibility resulting from these changes sufficiently addresses commenter concerns regarding the definition of “student achievement in tested grades and subjects.” We believe it is important that the regulations permit States to determine an effective and valid way to measure growth for students in grades and subjects covered by section 1111(b)(2) of the ESEA, as amended by ESSA, and that the revisions we have made provide sufficient flexibility for States to do so.

While the revised requirement does not necessitate the use of ESEA standardized test scores, we believe that the use of such scores could be a valid and reliable measure of student growth and encourage its use in determining student learning outcomes where appropriate.¹¹

We now turn to the comments from those who asserted that maintaining a link between this definition and conditions of waivers granted to States under ESEA flexibility is problematic. While we maintain the substance of this definition in the definition of “student growth,” in view of section 4(c) of ESSA, which terminates waivers the Department granted under ESEA flexibility as of August 1, 2016, we have revised the requirements for calculation of student learning outcomes in § 612.5(a)(1)(ii) to allow States the flexibility to use “another State-

determined measure relevant to calculating student learning outcomes.” We believe that doing so allows the flexibility recommended by commenters. In addition, as we have stressed above in the discussion of *Federal-State-Institution Relationship, Generally*, under the regulations States have flexibility in how to weight each of the indicators of academic content knowledge and teaching skills.

Finally, the use of value-added measures are not specifically included in the definition in the revised requirements for the calculation of student learning outcomes, or otherwise required by the regulations. However, we believe that there is convincing evidence that value-added scores, based on standardized tests, can be valid and reliable measures of teacher effectiveness and a teacher’s effect on long-term student outcomes.¹² See our response to comments regarding § 612.5(a)(1), which provides an in-depth discussion of the use of student growth and VAM, and why we firmly believe that our student learning outcome measure, which references “student achievement in tested grades and subjects” is valid and reliable.

Changes: The definition of student achievement in tested grades and subjects has been removed. The substance of the definition has been moved to the definition of student growth.

Student Growth

Comments: Multiple commenters opposed the proposed definition of “student growth” because the definition, which was linked to ESEA standardized test scores and definitions of terms used for Race to the Top, would also be linked to VAM, which commenters stated are not valid or reliable. Additionally, other commenters disagreed with the suggestion that student growth may be defined as a simple comparison of achievement between two points in time, which they said downplays the potential challenges of incorporating such measures into evaluation systems.

A number of commenters also stated that the definition of “student growth” has created new testing requirements in areas that were previously not tested. They urged that non-tested grades and subjects should not be a part of the definition of student growth. By including them in this definition, the commenters argued, States and school districts would be required to test students in currently non-tested areas, which they contended should remain

non-tested. Several commenters also stated that, even as the value of yearly student testing is being questioned, the regulations would effectively add cost and burden to States that have not sought ESEA flexibility or received Race to the Top funds.

Discussion: These regulations define student growth as the change in student achievement between two or more points in time, using a student’s score on the State’s assessments under section 1111(b)(2) of the ESEA, as amended by ESSA, or other measures of student learning and performance, such as student results on pre-tests and end-of-course tests; objective performance-based assessments; student learning objectives; student performance on English language proficiency assessments; and other measures that are rigorous, comparable across schools, and consistent with State guidelines.

Due to the removal of separate definitions of student achievement in tested grades and subjects and student achievement in non-tested grades and subjects, and their replacement by one flexible definition of student growth, we believe we have addressed many concerns raised by commenters. This definition, for example, no longer requires States to use ESEA standardized test scores to measure student growth in any grade or subject, and does not require the use of definitions of terms used for Race to the Top.

We recognize commenters’ assertion that student growth defined as a comparison of achievement between two points in time downplays the potential challenges of incorporating such measures into evaluation systems. However, since the revised definition of student growth and the revised requirements for calculating student learning outcomes allow States a large degree of flexibility in how such measures are applied, we do not believe the revised definition will place a significant burden on States to implement and incorporate these concepts into their teacher preparation assessment systems.

We have addressed commenters’ recommendation that non-tested grades and subjects not be a part of the definition of student growth by removing the definition of student achievement in non-tested grades and subjects, and providing States with flexibility in how they apply the definition of student growth, should they choose to use it for measuring a program’s student learning outcomes. However, we continue to believe that student growth in non-tested grades and subjects can and should be measured at

¹⁰ In various comments, commenters used the phrases “value-added modeling,” “value-added metrics,” “value-added measures,” “value-added methods,” “value-added estimation,” and “value-added analysis.” For purposes of these comments, we understand the use of these terms to reflect similar ideas and concepts, so for ease of presentation of our summary of the comments and our responses to them, we use the single phrase “value-added models,” abbreviated as VAM.

¹¹ See, for example: Chetty, R., Friedman, J., & Rockoff, J. (2014). Measuring the Impacts of Teachers II: Teacher Value-Added and Student Outcomes in Adulthood. *American Economic Review*, 104(9), 2633–2679 (hereafter referred to as “Chetty et al.”)

¹² See, for example: Chetty, et al. at 2633–2679.

regular intervals. Further, the revisions to the definition address commenters' concerns that the regulations would effectively add cost and burden to States that have not sought ESEA flexibility or received Race to the Top funds.

Consistent with the definition, and in conjunction with the altered requirements for the calculation of student learning outcomes, and the removal of the definition of student achievement in tested grades and subjects as well as the definition of student achievement in non-tested grades and subjects, States have significant flexibility to determine the methods they use for measuring student growth and the extent to which it is factored into a teacher preparation program's performance rating. The Department's revised definition of "student growth" is meant to provide States with more flexibility in response to commenters. Additionally, if a State chooses to use a method that controls for additional factors affecting student and teacher performance, like VAM, the regulations permit it to do so. See our response to comments in § 612.5(a)(1), which provides an in-depth discussion of the use of student growth and VAM.

Changes: The definition of student growth has been revised to be the change in student achievement between two or more points in time, using a student's scores on the State's assessments under section 1111(b)(2) of the ESEA or other measures of student learning and performance, such as student results on pre-tests and end-of-course tests; objective performance-based assessments; student learning objectives; student performance on English language proficiency assessments; and other measures that are rigorous, comparable across schools, and consistent with State guidelines, rather than the change between two or more points in time in student achievement in tested grades and subjects and non-tested grades and subjects.

Student Learning Outcomes

Comments: None.

Discussion: Due to many commenters' concerns regarding State flexibility, the use of ESEA standardized test scores, and the relationships between our original proposed requirements and those under ESEA flexibility, we have included a provision in § 612.5(a)(1)(ii)(C) allowing States to use a State-determined measure relevant to calculating student learning outcomes. This measure may be used alone, or in combination with student growth and a teacher evaluation measure, as defined. As with the measure for student growth,

State-determined learning outcomes must be rigorous, comparable across schools, and consistent with state guidelines. Additionally, such measures should allow for meaningful differentiation between teachers. If a State did not select an indicator that allowed for such meaningful differentiation among teachers, and instead chose an indicator that led to consistently high results among teachers without reflecting existing inconsistencies in student learning outcomes—such as average daily attendance in schools, which is often uniformly quite high even in the lowest performing schools—the result would be very problematic. This is because doing so would not allow the State to meaningfully differentiate among teachers for the purposes of identifying which teachers, and thus which teacher preparation programs, are making a positive contribution to improving student learning outcomes.

Further, upon review of the proposed regulations, we recognized that the structure could be confusing. In particular, we were concerned that having a definition for the term "student learning outcomes" in § 612.2, when it largely serves to operationalize other definitions in the context of § 612.5, was not the clearest way to present these requirements. We therefore are moving the explanations and requirements of this term into the text of § 612.5(a).

Changes: We have altered the requirements in § 612.5(a)(1)(ii) for calculating "student learning outcomes" to provide States with additional flexibility. We have also removed the proposed definition of "student learning outcomes" from § 612.2, and moved the substance of the text and requirements of the student learning outcomes definition to § 612.5(a)(1).

Survey Outcomes

Comments: Commenters argued that States need flexibility on the types of indicators used to evaluate and improve teacher preparation programs. They suggested that States be required to gather data through teacher and employer surveys in a teacher's first three years of teaching, but be afforded the flexibility to determine the content of the surveys. Commenters added that specific content dictated from the Federal level would limit innovation in an area where best practices are still developing.

Some commenters also stated that it is important to follow graduates through surveys for their first five years of employment, rather than just their first year of teaching (as proposed in the regulations) to obtain a rich and well-

informed understanding of the profession over time, as the first five years is a significant period when teachers decide whether to leave or stay in the profession.

Commenters were concerned about the inclusion of probationary certificate teachers in surveys of teachers and employers for purposes of reporting teacher preparation program performance. Commenters noted that, in Texas, alternate route participants may be issued a probationary certificate that allows the participants to be employed as teachers of record for a period of up to three years while they are completing the requirements for a standard certificate. As a result, these probationary certificate holders would meet the proposed definition of "new teacher" and, therefore, they and their supervisors would be asked to respond to surveys that States would use to determine teacher preparation program performance, even though they have not completed their programs.

In addition, commenters asked which States are responsible for surveying teachers from a distance education program and their employers or supervisors.

Discussion: The regulations do not specify the number or type of questions to be included in employer or teacher surveys. Rather, we have left decisions about the content of these surveys to each State. We also note that, under the regulations, States may survey novice teachers and their employers for a number of consecutive years, even though they are only required to survey during the first year of teaching.

The goal of every teacher preparation program is to effectively prepare aspiring teachers to step into a classroom and teach all of their students well. As the regulations are intended to help States determine whether each teacher preparation program is meeting this goal, we have decided to focus on novice teachers in their first year of teaching, regardless of the type of certification the teachers have or the type of teacher preparation program they attended or are attending. When a teacher is given primary responsibility for the learning outcomes of a group of students, the type of program she attended or is still attending is largely irrelevant—she is expected to ensure that her students learn. We expect that alternative route teacher preparation programs are ensuring that the teachers they place in classrooms prior to completion of their coursework are sufficiently prepared to ensure student growth in that school year. We recognize that these teachers, and those who completed traditional teacher

preparation programs, will grow and develop as teachers in their first few years in the classroom.

We agree with commenters who suggested that surveying teachers and their employers about the quality of training in the teachers' preparation program would provide a more rich and well-informed understanding of the programs over time. However, we decline to require that States survey novice teachers and their employers for more than one year. As an indicator of novice teachers' academic content knowledge and teaching skills, these surveys are a much more robust indicator of program performance in preparing novice teachers for teaching when completed in the first year of teaching. In this way, the program is still fresh and teachers and employers can best focus on the unique impact of the program independent of other factors that may contribute to teaching quality such as on-the-job training. However, if they so choose, States are free to survey novice teachers and their employers in subsequent years beyond a teacher's first year of teaching, and consider the survey results in their assessment of teacher preparation program effectiveness.

For teacher preparation programs provided through distance education, a State must survey the novice teachers described in the definition of "teacher survey" who have completed such a program and who teach in that State, as well as the employers of those same teachers.

Changes: None.

Comments: None.

Discussion: Upon review, we recognized that the structure of the proposed regulations could be confusing. In particular, we were concerned that having a definition for the term "survey outcomes" in § 612.2, when it largely serves to operationalize other definitions in the context of § 612.5, was not the clearest way to present these requirements. We therefore are removing the definition of "survey outcomes" from § 612.2 and moving its explanations and requirements into § 612.5(a)(3).

Through this change, we are clarifying that the surveys will assess whether novice teachers possess the academic content knowledge and teaching skills needed to succeed in the classroom. We do so for consistency with § 612.5(a), which requires States to assess, for each teacher preparation program, indicators of academic content knowledge and teaching skills of novice teachers from that program. We also have removed the provision that the survey is of teachers in their first year of teaching in the State

where the teacher preparation is located, and instead provide that the survey is of teachers in their first year teaching in the State. This change is designed to be consistent with new language related to the reporting of teacher preparation programs provided through distance education, as discussed later in this document. Finally, we are changing the term "new teacher" to "novice teacher" for the reasons discussed under the definition of "novice teacher."

Changes: We have moved the content of the proposed definition of "survey outcomes" from § 612.2, with edits for clarity, to § 612.5(a)(3). We have also replaced the term "new teacher" with "novice teacher" in § 612.5(a)(3).

Teacher Evaluation Measure

Comments: Many commenters noted that the proposed definition of "teacher evaluation measure" is based on the definition of "student growth." Therefore, commenters stated that the definition is based on VAM, which they argued, citing research, is not valid or reliable for this purpose.

Discussion: The proposed definition of "teacher evaluation measure" did include a measure of student growth. However, while VAM reflects a permissible way to examine student growth, neither in the final definition of teacher evaluation measure nor anywhere else in these regulations is the use of VAM required. For a more detailed discussion of the use of VAM, please see the discussion of § 612.5(a)(1).

Changes: None.

Comments: Commenters stated that the proposed definitions of "teacher evaluation measure" and "student growth" offer value from a reporting standpoint and should be used when available. Commenters also noted that it would be useful to understand novice teachers' impact on student growth and recommended that States be required to report student growth outcomes separately from teacher evaluation measures where both are available.

Commenters also noted that not all States may have teacher evaluation measures that meet the proposed definition because not all States require student growth to be a significant factor in teacher evaluations, as required by the proposed definition. Other commenters suggested that, while student growth or achievement should be listed as the primary factors in calculating teacher evaluation measures, other factors such as teacher portfolios and student and teacher surveys should be included as secondary considerations.

Some commenters felt that any use of student performance to evaluate effectiveness of teacher instruction needs to include multiple measures over a period of time (more than one to two years) and take into consideration the context (socioeconomic, etc.) in which the instruction occurred.

Discussion: We first stress that the regulations allow States to use "teacher evaluation measures" as one option for student learning outcomes; use of these measures is not required. States also may use student growth or, another State-determined measure relevant to calculating student learning outcomes, or combination of these three options.

Furthermore, while we agree that reporting on student growth separately from teacher evaluation measures would likely provide the public with more information about the performance of novice teachers, we are committed to providing States the flexibility to develop performance systems that best meet their specific needs. In addition, because of the evident cost and burden of disaggregating student growth data from teacher evaluation measures, we do not believe that the HEA title II reporting system is the right vehicle for gathering this information. As a result, we decline to require separate reporting.

States may consider having LEAs incorporate teacher portfolios and student and teacher surveys into teacher evaluation measures, as the commenters recommended. In this regard, we note that the definition of "teacher evaluation measure" requires use of multiple valid measures, and we believe that teacher evaluation systems that use such additional measures of professional practice provide the best information on a teacher's effectiveness. We also note that, because the definition of "novice teacher" encompasses the first three years as a teacher of record, teacher evaluation measures that include up to three years of student growth data are acceptable measures of student learning outcomes under § 612.5(a)(1). In addition, States can control for different kinds of student and classroom characteristics in ways that apply our definition of student learning outcomes and student growth. See the discussion of § 612.5(a)(2) for further information of the student learning outcomes indicator.

With regard to the comment that some States lack teacher evaluation measures that meet the proposed definition because they do not require student growth to be a significant factor in teacher evaluations, we previously explained in our discussion of § 612.1 (and do so again in our discussion of § 612.6) our reasons for removing any

proposed weightings of indicators from these regulations. Thus we have removed the phrase, “as a significant factor,” from the definition of teacher evaluation measure.

Changes: We have removed the words “as a significant factor” from the second sentence of the definition.

Comments: None.

Discussion: In response to the student learning outcomes indicator, some commenters recommended that States be allowed to use the teacher evaluation system they have in place. By proposing definitions relevant to student learning outcomes that align with previous Department initiatives, our intention was that the teacher evaluation systems of States that include student growth as a significant factor, especially those that had been granted ESEA flexibility, would meet the requirements for student learning outcomes under the regulations. Upon further review, we determined that revision to the definition of “teacher evaluation measure” is necessary to ensure that States are able to use teacher evaluation measures to collect data for student learning outcomes if the teacher evaluation measures include student growth, and in order to ensure that the definition describes the measure itself, which is then operationalized through a State’s calculation.

We understand that some States and districts that use student growth in their teacher evaluation systems do not do so for teachers in their first year, or first several years, of teaching. We are satisfied that such systems meet the requirements of the regulations so long as student growth is used as one of the multiple valid measures to assess teacher performance within the first three years of teaching. To ensure such systems meet the definition of “teacher evaluation measure,” we are revising the phrase “in determining each teacher’s performance level” in the first sentence of the definition so that it reads “in determining teacher performance.”

Furthermore, for the reasons included in the discussion of §§ 612.1 and 612.6, we are removing the phrase “as a significant factor” from the definition. In addition, we are removing the phrase “of performance levels” from the second sentence of the definition, as inclusion of that phrase in the NPRM was an error.

In addition, we have determined that the parenthetical phrase beginning “such as” could be shortened without changing the intent, which is to provide examples of other measures of professional practice.

Finally, in response to commenters’ desire for additional flexibility in calculating student learning outcomes, and given the newly enacted ESSA, under which waivers granted under ESEA flexibility will terminate as of August 1, 2016, we have revised the regulations so that States may use any State-determined measure relevant to calculating student learning outcomes, or combination of these three options.

Changes: We have revised the definition of “teacher evaluation measure” by removing the phrase “By grade span and subject area and consistent with statewide guidelines, the percentage of new teachers rated at each performance level under” and replaced it with “A teacher’s performance level based on”. We have removed the final phrase “determining each teacher’s performance level” and replaced it with “assessing teacher performance.” We have also revised the parenthetical phrase beginning “such as” so that it reads “such as observations based on rigorous teacher performance standards, teacher portfolios, and student and parent surveys.”

Teacher of Record

Comments: Commenters requested that the Department establish a definition of “teacher of record,” but did not provide us with recommended language.

Discussion: We used the term “teacher of record” in the proposed definition of “new teacher,” and have retained it as part of the definitions of “novice teacher” and “recent graduate.” We agree that a definition of “teacher of record” will be helpful and will add clarity to those two definitions.

We are adopting a commonly used definition of “teacher of record” that focuses on a teacher or co-teacher who is responsible for student outcomes and determining a student’s proficiency in the grade or subject being taught.

Changes: We have added to § 612.2 a definition of “teacher of record,” and defined it to mean a teacher (including a teacher in a co-teaching assignment) who has been assigned the lead responsibility for student learning in a subject or course section.

Teacher Placement Rate

Comments: Some commenters questioned whether it was beyond the Department’s authority to set detailed expectations for teacher placement rates. Several commenters expressed concerns about which individuals would and would not be counted as “placed” when calculating this rate. In this regard, the commenters argued that

the Federal government should not mandate the definitive list of individuals whom a State may exclude from the placement rate calculation; rather, they stated that those decisions should be entirely up to the States.

Discussion: In response to commenters who questioned the Department’s authority to establish detailed expectations for a program’s teacher placement rate, we note that the regulations simply define the teacher placement rate and how it is to be calculated. The regulations also generally require that States use it as an indicator of academic content and teaching skills when assessing a program’s level of performance. And they require this use because we strongly believe both (1) that a program’s teacher placement rate is an important indicator of academic content knowledge and teaching skills of recent graduates, and (2) that a rate that is very low, like one that is very high, is a reasonable indicator of whether the program is successfully performing one of its basic functions—to produce individuals who become hired as teachers of record.

The regulations do not, as the commenters state, establish any detailed expectations of what such a low (or high) teacher placement rate is or should be. This they leave up to each State, in consultation with its group of stakeholders as required under § 612.4(c).

We decline to accept commenters’ recommendations to allow States to determine who may be excluded from placement rate calculations beyond the exclusions the regulations permit in the definition of “teacher placement rate.” Congress has directed that States report their teacher placement rate data “in a uniform and comprehensible manner that conforms to the definitions and methods established by the Secretary.” See section 205(a) of the HEA. We believe the groups of recent graduates that we permit States, at their discretion, to exclude from these calculations—teachers teaching out of State and in private schools, and teachers who have enrolled in graduate school or entered the military—reflect the most common and accepted groups of recent graduates that States should be able to exclude, either because States cannot readily track them or because individual decisions to forgo becoming teachers does not speak to the program’s performance. Commenters did not propose another comparable group whose failure to become novice teachers should allow a State to exclude them in calculations of a program’s teacher placement rate, and upon review of the

comments we have not identified such a group.

We accept that, in discussing this matter with its group of stakeholders, a State may identify one or more such groups of recent graduates whose decisions to pass up opportunities to become novice teachers are also reasonable. However, as we said above, a teacher placement rate becomes an indicator of a teacher preparation program's performance when it is unreasonably low, *i.e.*, below a level of reasonableness the State establishes based on the fact that the program exists to produce new teachers. We are not aware of any additional categories of recent graduates that are not already included in the allowable exclusions that would be both sufficiently large and whose circumstances are out of the control of the teacher preparation program that would, without their exclusion, result in an unreasonably low teacher placement rate. Given this, we believe States do not need the additional flexibility that the commenters propose.

Changes: None.

Comments: Commenters also expressed concern about participants who are hired in non-teaching jobs while enrolled and then withdraw from the program to pursue those jobs, suggesting that these students should not be counted against the program. Some commenters questioned the efficacy of teacher placement rates as an indicator of teacher preparation program performance, given the number of teachers who may be excluded from the calculation for various reasons (*e.g.*, those who teach in private schools). Other commenters were more generally concerned that the discretion granted to States to exclude certain categories of novice teachers meant that the information available on teacher preparation programs would not be comparable across States.

Some commenters objected to permitting States to exclude teachers or recent graduates who take teaching positions out of State, arguing that, to be useful, placement rate data need to be gathered across State boundaries as program graduates work in numerous States.

Discussion: We believe that the revised definition of "recent graduate," as well as the allowable exclusions in the definitions of both teacher placement and retention rates, not only alleviate obvious sources of burden, but provide States with sufficient flexibility to calculate these rates in reasonable ways. Program participants who do not complete the program do not become recent graduates, and would not be

included in calculations of the teacher placement rate. However, if the commenters intended to address recent graduates who were employed in non-teaching positions while in or after completing the program, we would decline to accept the recommendation to exclude individuals because we believe that, except for those who become teachers out of State or in private schools, those who enroll in graduate school, or those who enter the military (which the regulations permit States to exclude), it is important to assess teacher preparation programs based on factors that include their success rates in having recent graduates hired as teachers of record.

With regard to the efficacy of the teacher placement rate as an indicator of program performance, we understand that employment outcomes, including teacher placement rates, are influenced by many factors, some of which are outside of a program's control. However, we believe that employment outcomes are, in general, a good reflection of program because they signal a program's ability to produce graduates whom schools and districts deem to be qualified and seek to hire and retain. Moreover, abnormally low employment outcomes are an indication that something about the program is amiss (just as abnormally high outcomes suggest something is working very well). Further discussion on this topic can be found under the subheading *Employment Outcomes as a Measure of Performance*, § 612.5(a)(2).

While we are sympathetic to the commenters' concern that the proposed definition of teacher placement rate permits States to calculate employment outcomes only using data on teachers hired to teach in public schools, States may not, depending on State law, be able to require that private schools cooperate in the State data collection that the regulations require. We do note that, generally, teacher preparation programs are designed to prepare teachers to meet the requirements to teach in public schools nationwide, and over 90 percent of teachers in elementary and secondary schools do not work in private schools.¹³ Additionally, requiring States to collect data on teachers employed in private schools or out of State, as well as those who enroll in graduate school or enter

the military, would create undue burden on States. The regulations do not prevent teacher preparation entities from working with their States to secure data on recent graduates who are subject to one or more of the permissible State exclusions and likewise do not prevent the State using those data in calculating the program's employment outcomes, including teacher placement rates.

Similarly, we appreciate commenters' recommendation that the regulations include placement rate data for those recent graduates who take teaching positions in a different State. Certainly, many novice teachers do become teachers of record in States other than those where their teacher preparation programs are located. We encourage States and programs to develop interstate data-sharing mechanisms to facilitate reporting on indicators of program performance to be as comprehensive and meaningful as possible.

Until States have a ready means of gathering these kinds of data on an interstate basis, we appreciate that many States may find the costs and complexities of this data-gathering to be daunting. On the other hand, we do not view the lack of these data (or the lack of data on recent graduates teaching in private schools) to undermine the reasonableness of employment outcomes as indicators of program performance. As we have explained, it is when employment outcomes are particularly low that they become indicators of poor performance, and we are confident that the States, working in consultation with their stakeholders, can determine an appropriate threshold for teacher placement and retention rates.

Finally, we understand that the discretion that the regulations grant to each State to exclude novice teachers who teach in other States and who work in private schools (and those program graduates who go on to graduate school or join the military) means that the teacher placement rates for teacher preparation programs will not be comparable across States. This is not a major concern. The purpose of the regulations and the SRC itself is to ensure that each State reports those programs that have been determined to be low-performing or at-risk of being low-performing based on reasonable and transparent criteria. We believe that each State, in consultation with its stakeholders (see § 612.4(c), should exercise flexibility to determine whether to have the teacher placement rate reflect inclusion of those program graduates identified in paragraph (ii) of the definition.

¹³ According to data from the Bureau of Labor Statistics, in May 2014, of the 3,696,580 individuals employed as preschool, primary, secondary, and special education school teachers in elementary and secondary schools nationwide, only 358,770 were employed in private schools. See www.bls.gov/oes/current/naics4_611100.htm and www.bls.gov/oes/current/611100_5.htm.

Changes: None.

Comments: Several commenters recommended that a State with a statewide preschool program that requires early educators to have postsecondary training and certification and State licensure be required to include data on early educators in the teacher placement rate, rather than simply permit such inclusion at the State's discretion.

Discussion: We strongly encourage States with a statewide preschool program where early educators are required to obtain State licensure equivalent to elementary school teachers to include these teachers in their placement data. However, we decline to require States to include these early educators in calculations of programs' teacher placement rates because early childhood education centers are often independent from local districts, or are run by external entities. This would make it extremely difficult for States to determine a valid and reasonable placement rate for these teachers.

Changes: None.

Comments: Commenters recommended that teachers who have been hired in part-time teaching positions be counted as "placed," arguing that the placement of teachers in part-time teaching positions is not evidence of a lower quality teacher preparation program.

Discussion: We are persuaded by comments that a teacher may function in a part-time capacity as a teacher of record in the subject area and grade level for which the teacher was trained and that, in those instances, it would not be appropriate to count this part-time placement against a program's teacher placement rate. As such, we have removed the requirement that a teacher placement rate be based on the percentage of recent graduates teaching in full-time positions.

Changes: We have removed the full-time employment requirement from the definition of "teacher placement rate."

Comments: Commenters asked whether a participant attending a teacher preparation program who is already employed as a teacher by an LEA prior to graduation would be counted as "placed" post-graduation. Commenters felt that excluding such students may unduly penalize programs that tailor their recruitment of aspiring teachers to working adults.

Discussion: We are uncertain whether the commenter is referring to a teacher who has already received initial certification or licensure and is enrolled in a graduate degree program or is a participant in an alternative route to

certification program and is working as a teacher as a condition of participation in the program. As discussed in the section titled "Teacher Preparation Program," a teacher preparation program is defined, in part, as a program that prepares an individual for initial certification or licensure. As a result, it is unlikely that a working teacher would be participating in such a program. See the section titled "Alternative Route Programs" for a discussion of the use of teacher placement rate in alternative route programs.

Comments: Some commenters recommended that the teacher placement rate calculation account for regional differences in job availability and the general competitiveness of the employment market. In addition, commenters argued that placement rates should also convey whether the placement is in the area in which the candidate is trained to teach or out-of-field (*i.e.*, where there is a mismatch between the teacher's content training and the area of the placement). The commenters suggested that young teachers may be more likely to get hired in out-of-field positions because they are among the few willing to take those jobs. Commenters contended that many teachers from alternative route programs (including Teach for America) are in out-of-field placements and should be recognized as such. Commenters also argued that high-need schools are notoriously staffed by out-of-field teachers, thus, they recommended that placement rate data account for the congruency of the placement. The commenters stated this is especially important if the final regulations include placement rates in high-need schools as an indicator of program performance.

Discussion: We encourage entities operating teacher preparation programs to take factors affecting supply and demand, such as regional differences in job availability and the general competitiveness of the employment market, into consideration when they design and implement their programs and work to have their participants placed as teachers.

Nonetheless, we decline to accept the recommendation that the regulations require that the teacher placement rate calculation account for these regional differences in job availability and the competitiveness of the employment market. Doing so would be complex, and would entail very large costs of cross-tabulating data on teacher preparation program location, area of residence of the program graduate, teacher placement data, and a series of employment and job market indicators.

States may certainly choose to account for regional differences in job availability and the general competitiveness of the employment market and pursue the additional data collection that such effort would entail. However, we decline to require it.

As explained in the NPRM, while we acknowledge that teacher placement rates are affected by some considerations outside of the program's control, we believe that placement rates are still a valid indicator of the quality of a teacher preparation program (see the discussion of employment outcomes under § 612.5(a)(2)).

We understand that teachers may be hired to teach subjects and areas in which they were not prepared, and that out-of-field placement is more frequent in high-need schools. However, we maintain the requirement that the teacher placement rate assess the extent to which program graduates become novice teachers in the grade-level, grade-span, and subject area in which they were trained. A high incidence of out-of-field placement reflects that the teacher preparation program is not in touch with the hiring needs of likely prospective employers, thus providing its participants with the academic content knowledge and teaching skills to teach in the fields that do not match employers' teaching needs. We also recognize that placing teachers in positions for which they were not prepared could lead to less effective teaching and exacerbate the challenges already apparent in high-need schools.

Changes: None.

Comments: Some commenters stated that, while it is appropriate to exclude the categories of teachers listed in the proposed definition of "teacher placement rate," data on the excluded teachers would still be valuable to track for purposes of the State's quality rating system. Commenters proposed requiring States to report the number of teachers excluded in each category.

Discussion: Like the commenters, we believe that the number of recent graduates that a State excludes from its calculation of a program's teacher placement rate could provide useful information to the program. For reasons expressed above in response to comments, however, we believe a program's teacher placement rate will be a reasonable measure of program performance without reliance on the number of teachers in each category whom a State chooses to exclude from its calculations. Moreover, we do not believe that the number of recent graduates who go on to teach in other States or in private schools, or who enter graduate school or the military, is

a reflection of a program's quality. Because the purpose of the teacher placement rate, like all of the regulations' indicators of academic content knowledge and teaching skills, is to provide information on the performance of the program, we decline to require that States report data in their SRCs. We nonetheless encourage States to consider obtaining, securing, and publicizing these data as a way to make information they provide about each program more robust.

Changes: None.

Comments: Commenters stated that it is important to have teacher placement data beyond the first year following graduation, because graduates sometimes move among districts in the early years of their careers. One commenter noted that, in the commenter's State, data are currently available only for teachers in their first year of teaching, and that there is an important Federal role in securing these data beyond this first year.

Discussion: From our review of the comments, we are unclear whether the

commenters intended to refer to a program's teacher retention rate, because recent graduates who become novice teachers and then immediately move to another district would be captured by the teacher retention rate calculation. But because our definition of "novice teacher" includes an initial three-year teaching period, program's teacher retention rate would still continue to track these teachers in future years.

In addition, we believe a number of commenters may have misunderstood how the teacher placement rate is calculated and used. Specifically, a number of commenters seemed to believe that the teacher placement rate is only calculated in the first year after program completion. This is inaccurate. The teacher placement rate is determined by calculating the percentage of recent graduates who have become novice teachers, regardless of their retention. As such, the teacher placement rate captures any recent graduate who works as a teacher of record in an elementary or secondary

public school, which may include preschool at the State's discretion, within three years of program completion.

In order to provide additional clarity, we provide the following example. We examine a theoretical group of graduates from a single teacher preparation program, as outlined in Table 1. In examining the example, it is important to understand that a State reports in its SRC for a given year a program's teacher retention rate based on data from the second preceding title II reporting year (as the term is defined in the regulations). Thus, recent graduates in 2018 (in the 2017–2018 title II reporting year) might become novice teachers in 2018–2019. The State collects these data in time to report them in the SRC to be submitted in October 2019. Please see the discussion of the timing of the SRC under § 612.4(a)(1)(i) *General State Report Card reporting* and § 612.4(b) *Timeline* for changes in the reporting timeline from that proposed in the NPRM.

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Table 1. Example of Calculations of a Teacher Placement Rate for a Single Teacher Preparation Program

Teacher	Title II Reporting Year (Academic Year)					
	2017 (2016-2017)	2018 (2017-2018)	2019 (2018-2019)	2020 (2019-2020)	2021 (2020-2021)	2022 (2021-2022)
A	Grad N	Y	Y	Y	Y	Y
B	Grad N	Y	Y	Y	N	N
C	Grad N	N	Y	Y	Y	Y
D	Grad N	N	N	Y	Y	Y
E	Grad N	N	N	N	Y	Y
F		Grad Y	Y	Y	Y	N
G		Grad Y	Y	N	N	N
H		Grad N	Y	Y	Y	Y
I		Grad N	N	N	Y	Y
J		Grad Y	N	N	N	N
K		Grad N	Y	N	Y	Y

Teacher placement rate	State does not report in this year	Pilot Year $\frac{A+B}{A+B+C+D+Y}$ $= \frac{2}{5} = \mathbf{40\%}$	$\frac{\frac{A+B+C+F}{G+H+J+K}}{\frac{A+B+C+D+Y}{F+G+H+I+J}}$ $= \frac{8}{11} = \mathbf{72.7\%}$	$\frac{\frac{A+B+C++D}{F+G+H+J+K}}{\frac{A+B+C+D+Y}{F+G+H+I+J}}$ $= \frac{9}{11} = \mathbf{81.8\%}$	$\frac{\frac{F+G+H+I+K}{F+G+H+I+J}}{\frac{F+G+H+I+K}{F+G+H+I+J}}$ $= \frac{6}{6} = \mathbf{100\%}$	$\frac{0}{0} = N/A$
NOTES: Grad = Individual met all the requirements for program completion in that year. Y = Teacher of record for P-12 public school students in that year N = Not a teacher of record for P-12 public school students in that year.						

In this example, the teacher preparation program has five individuals who met all of the requirements for program completion in the 2016–2017 academic year. The State counts these individuals (A, B, C, D, and E) in the denominator of the placement rate for the program's recent graduates in each of the State's 2018, 2019, and 2020 SRCs because they are, or could be, recent graduates who had become novice teachers in each of the prior title II reporting years. Moreover, in each of these years, the State would determine how many of these individuals have become novice teachers. In the 2018 SRC, the State identifies that A and B have become novice teachers in the prior reporting year. As such, the State divides the total number of recent graduates who have become novice teachers (2) by the total number of recent graduates from 2016–2017 (5). Hence, in the 2018 SRC, this teacher preparation program has a teacher placement rate of 40 percent.

In the State's 2019 SRC, all individuals who completed the program in 2017 and those who completed in 2018 (the 2016–2017 and 2017–2018 title II reporting years) meet the definition of recent graduate. In the 2018–2019 academic year, one additional completer from the 2016–2017 academic year has become a novice teacher (C), and five (F, G, H, J, and K) of the six 2017–2018 program completers have become novice teachers. In this instance, Teacher J is included as a recent graduate who has become a novice teacher even though Teacher J is not teaching in the current year. This is because the definition requires inclusion of all recent graduates who have become novice teachers at any time, regardless of their retention. Teacher J is counted as a successfully placed teacher. The fact that Teacher J is no longer still employed as a teacher is captured in the teacher retention rate, not here. As such, in the 2019 SRC, the teacher preparation program's teacher placement rate is 73 percent (eight program completers out of eleven have been placed).

In the State's 2020 SRC, there are no additional cohorts to add to the pool of recent graduates in this example although, in reality, States will be calculating this measure using three rolling cohorts of program completers each year. In this example, Teacher D has newly obtained placement as a novice teacher and would therefore be included in the numerator. As with Teacher J in the prior year's SRC, Teachers G and K remain in the numerator even though they are no longer teachers of record because they

have been placed as novice teachers previously. In the 2020 SRC, the teacher preparation program's teacher placement rate is 82 percent (nine program completers out of eleven have been placed).

In the 2021 SRC, individuals who completed their teacher preparation program in the 2016–2017 academic year (A, B, C, D, and E) are no longer considered recent graduates since they completed their programs prior to the preceding three title II reporting years (2018, 2019, 2020). As such, the only cohort of recent graduates the State examines for this hypothetical teacher preparation program are those that completed the program in the 2016–2017 academic year (F, G, H, I, J, and K). In the 2020–2021 academic year, Teacher I is placed as a novice teacher. Once again, Teachers G and J are included in the numerator even though they are not currently employed as teachers because they have previously been placed as novice teachers. The program's teacher placement rate in the 2021 SRC would be 100 percent.

In the 2022 SRC, this hypothetical teacher preparation program has no recent graduates, as no one completed the requirements of the program in any of the three preceding title II reporting years (2019, 2020, or 2021).

As noted above, it is important to restate that recent graduates who have become novice teachers at any point, such as Teacher J, are included in the numerator of this calculation, regardless of whether they were retained as a teacher of record in a subsequent year. As such, if an individual completed a teacher preparation program in Year 1 and became a novice teacher in Year 2, regardless of whether he or she is still a novice teacher in Year 3, the individual is considered to have been successfully placed under this measure. Issues regarding retention of teachers are captured by the teacher retention rate measure, and therefore departures from a teaching position have no negative consequences under the teacher placement rate.

We have adopted these procedures for State reporting of a program's teacher placement rate in each year's SRC to keep them consistent with the proposal we presented in the NPRM for reporting teacher placement rates over a three-year period, in line with the change in the SRC reporting date, and as simple and straightforward as possible. This led us to make certain non-substantive changes to the proposed definition of teacher retention rate so that the definition is clearer and less verbose. In doing so, we have removed the State's option of excluding novice teachers who

have taken teaching positions that do not require State certification (paragraph (ii)(C) of the proposed definition) because it seems superfluous; our definition of teacher preparation program is one that leads to an initial State teacher certification or licensure in a specific field.

Changes: We have revised the definition of “teacher placement rate” to include:

(i) The percentage of recent graduates who have become novice teachers (regardless of retention) for the grade level, span, and subject area in which they were prepared.

(ii) At the State's discretion, exclusion from the rate calculated under paragraph (i) of this definition of one or more of the following, provided that the State uses a consistent approach to assess and report on all of the teacher preparation programs in the State:

(A) Recent graduates who have taken teaching positions in another State.

(B) Recent graduates who have taken teaching positions in private schools.

(C) Recent graduates who have enrolled in graduate school or entered military service.

Comments: None.

Discussion: The Department recognizes that a State may be unable to accurately determine the total number of recent graduates in cases where a teacher preparation program provided through distance education is offered by a teacher preparation entity that is physically located in another State. Each institution of higher education conducting a teacher preparation program is required to submit an IRC, which would include the total number of recent graduates from each program, to the State in which it is physically located. If the teacher preparation entity operates a teacher preparation program provided through distance education in other States, it is not required to submit an IRC in those States. As a result, a State with a teacher preparation program provided through distance education that is operated by an entity physically located in another State will not have access to information on the total number of recent graduates from such program. Even if the State could access the number of recent graduates, recent graduates who neither reside in nor intend to teach in such State would be captured, inflating the number of recent graduates and resulting in a teacher placement rate that is artificially low.

For these reasons, we have has determined that it is appropriate to allow States to use the total number of recent graduates who have obtained initial certification or licensure in the

State, rather than the total number of recent graduates, when calculating teacher placement rates for teacher preparation programs provided through distance education. We believe that teacher placement rate calculated using the number of recent graduates who have obtained initial certification or licensure is likely more accurate in these instances than total recent graduates from a multi-state program. Even so, since fewer recent graduates obtain initial certification or licensure than the total number of recent graduates, the teacher placement rate may be artificially high. To address this, we have also revised the employment outcomes section in § 612.5(a)(2) to allow States a greater degree of flexibility in calculating and weighting employment outcomes for teacher preparation programs offered through distance education.

Changes: We have revised the definition of teacher placement rate in § 612.2 to allow States to use the total number of recent graduates who have obtained initial certification or licensure in the State during the three preceding title II reporting years as the denominator in their calculation of teacher placement rate for teacher preparation programs provided through distance education instead of the total number of recent graduates.

Teacher Preparation Program

Comments: Commenters stated that the regulations are designed for undergraduate teacher preparation programs rather than graduate programs, in part because the definition of teacher preparation program is linked to specific teaching fields. This could result in small program sizes for post-baccalaureate preparation programs.

Another commenter noted that it offers a number of graduate degree programs in education that do not lead to initial certification, but that the programs which institutions and States report on under part 612 are limited to those leading to initial certification.

Other commenters urged that aggregation of data to elementary and secondary data sets would be more appropriate in States with a primarily post-baccalaureate teacher preparation model. We understand that commenters are suggesting that our proposed definition of “teacher preparation program,” with its focus on the provision of a specific license or certificate in a specific field, will give States whose programs are primarily at the post-baccalaureate level considerable trouble collecting and reporting data for the required

indicators given their small size. (See generally § 612.4(b)(3).)

Discussion: The definition of teacher preparation program in the regulations is designed to apply to both undergraduate and graduate level teacher preparation programs. We do not agree that the definition is designed to fit teacher preparation programs better at one or another level. With regard to the commenters’ concerns about greater applicability to graduate-level programs, while the commenters identified these as concerns regarding the definition of teacher preparation program, we understand the issues described to be about program size, which is addressed in § 612.4(b). As such, these comments are addressed in the discussion of program size under § 612.4(b)(3)(ii). We do believe that it is important to clarify that a teacher preparation program for purposes of title II, HEA reporting is one that leads to initial certification, as has been the case under the title II reporting system since its inception.

Changes: We have revised the definition of the term “teacher preparation program” to clarify that it is one that leads to initial state teacher certification or licensure in a specific field.

Comments: Commenters noted that, because teacher preparation programs in some States confer academic degrees (e.g., Bachelor of Arts in English) on graduates rather than degrees in education, it would be impossible to identify graduates of teacher preparation programs and obtain information on teacher preparation graduates. Additionally, some commenters were concerned that the definition does not account for students who transfer between programs or institutions, or distinguish between students who attended more than one program; it confers all of the credit or responsibility for these students’ academic content knowledge and teaching skills on the program from which the student graduates. In the case of alternative route programs, commenters stated that students may have received academic training from a different program, which could unfairly either reflect poorly on, or give credit to, the alternative route program.

Discussion: Under the regulatory definition of the term, a teacher preparation program, whether alternative route or traditional, must lead to an initial State teacher certification or licensure in a specific field. As a result, a program that does not lead to an initial State teacher certification or licensure in a specific field (e.g., a Bachelor of Arts in English

without some additional education-related coursework) is not considered a teacher preparation program that is reported on under title II. For example, a program that provides a degree in curriculum design, confers a Masters of Education, but does not prepare students for an initial State certification or licensure, would not qualify as a teacher preparation program under this definition. However, a program that prepares individuals to be high school English teachers, including preparing them for an initial State certification or licensure, but confers no degree would be considered a teacher preparation program. The specific type of degree granted by the program (if any) is irrelevant to the definition in these regulations. Regardless of their structure, all teacher preparation programs are responsible for ensuring their students are prepared with the academic content knowledge and teaching skills they need to succeed in the classroom. Therefore, by having the regulatory definition of teacher preparation program encompass all teacher preparation programs, regardless of their structure, that lead to initial State teacher certification or licensure in a specific field, it makes sense that States must report on the performance and associated data of each of these programs.

While we understand that students often transfer during their college careers, we believe that the teacher preparation program that ultimately determines that a student is prepared for initial certification or licensure is the one responsible for his or her performance as a teacher. This is so regardless of whether the student started in that program or a different one. The same is true for alternative route programs. Since alternative route programs enroll individuals who have had careers, work experiences, or academic training in fields other than education, participants in these programs have almost by definition had academic training elsewhere. However, we believe it is fully appropriate to have the alternative route program assume full responsibility for effective teacher training under the title II reporting system, as it is the program that determined the teacher to have sufficient academic content knowledge and teaching skills to complete the requirements of the program.

Finally, we note that in § 612.5(a)(4), the regulations also require States to determine whether teacher preparation programs have rigorous exit requirements. Hence, regardless of student transfers, the public will know whether the State considers program

completers to have reached a high standard of preparation.

Changes: None.

Comment: None.

Discussion: In considering the comments we received on alternative route to certification programs, we realized that our proposed definition of “teacher preparation program” did not address the circumstance where the program, while leading to an initial teacher certification or licensure in a specific field, enrolls some students in a traditional teacher preparation program and other students in an alternative route to certification program (*i.e.*, hybrid programs). Like the students enrolled in each of these two programmatic components, the components themselves are plainly very different. Principally, one offers instruction to those who will not become teachers of record until after they graduate and become certified to teach, while the other offers instruction to those who already are teachers of record (and have met State requirements to teach while enrolled in their teacher preparation program), and that thereby supports and complements those individuals’ current teaching experiences. Thus, while each component is “offered by [the same] teacher preparation entity” and “leads to an initial State teacher certification or licensure in a specific field,” this is where the similarity may end.

We therefore have concluded that our proposed definition of a teacher preparation program does not fit these hybrid programs. Having an IHE or the State report composite information for a teacher preparation program that has both a traditional and alternative route component does not make sense; reporting in the aggregate will mask what is happening with or in each component. The clearest and simplest way to avoid the confusion in reporting that would otherwise result is to have IHEs and States treat each component of such a hybrid program as its own teacher preparation program. We have revised the definition of a “teacher preparation program” in § 612.2 to do just that. While doing so may create more small teacher preparation programs that require States to aggregate data under § 612.4(b)(3)(ii), this consequence will be far outweighed by the benefits of cleaner and clearer information.

Changes: We have revised the definition of a “teacher preparation program” in § 612.2 to clarify that where some participants in the program are in a traditional route to certification or licensure in a specific field, and others are in an alternative route to

certification or licensure in that same field, the traditional and alternative route component is each its own teacher preparation program.

Teacher Retention Rate

Comments: Some commenters stated that by requiring reporting on teacher retention rates, both generally and for high-need schools, program officials—and their potential applicants—can ascertain if the programs are aligning themselves with districts’ staffing needs.

Other commenters stated that two of the allowable options for calculating the teacher retention rate would provide useful information regarding: (1) The percentage of new teachers hired into full-time teaching positions and serving at least three consecutive years within five years of being certified or licensed; and (2) the percentage of new teachers hired full-time and reaching tenure within five years of being certified. According to commenters, the focus of the third option, new teachers who were hired and then fired for reasons other than budget cuts, could be problematic because it overlooks teachers who voluntarily leave high-need schools, or the profession altogether. Other commenters recommended removing the definition of teacher retention rate from the regulations.

Another commenter stated that the teacher retention rate, which we had proposed to define as any of the three specific rates as selected by the State, creates the potential for incorrect calculations and confusion for consumers when teachers have initial certification in multiple States; however, the commenter did not offer further information to clarify its meaning. In addition, commenters stated that the proposed definition allows for new teachers who are not retained due to market conditions or circumstances particular to the LEA and beyond the control of teachers or schools to be excluded from calculation of the retention rate, a standard that allows each school to determine the criteria for those conditions, which are subject to interpretation.

Several commenters requested clarification of the definition. Some asked us to clarify what we meant by tenure. Another commenter asked us to clarify how to treat teachers on probationary certificates.

Another commenter recommended that the Department amend the teacher retention rate definition so that it is used to help rate teacher preparation programs by comparing the program’s recent graduates who demonstrate effectiveness and remain in teaching to those who fail to achieve high ratings on

evaluations. One commenter suggested that programs track the number of years graduates taught over the course of five years, regardless of whether or not the years taught were consecutive. Others suggested shortening the timeframe for reporting on retention so that the rate would be reported for each of three consecutive years and, as we understand the comments, would apply to individuals after they became novice teachers.

Discussion: We agree with the commenters who stated that reporting on teacher retention rates both generally and for high-need schools ensures that teacher preparation programs are aligning themselves with districts’ staffing needs.

In response to comments, we have clarified and simplified the definition of teacher retention rate. We agree with commenters that the third proposed option, by which one subtracts from 100 percent the percentage of novice teachers who were hired and fired for reasons other than budget cuts, is not a true measure of retention because it excludes those who voluntarily leave the profession. Therefore, we have removed it as an option for calculating the retention rate. Doing so also addresses those concerns that the third option allowed for too much discretion in interpreting when local conditions beyond the schools’ control caused teachers to no longer be retained.

We also agree with commenters that the second proposed option for calculating the rate, which looked to the percentage of new teachers not receiving tenure within five years, is confusing and does not make sense when looking at new teachers, which we had proposed to define as covering a three-year teaching period, as tenure may not be reached during that timeframe. For these reasons, we also have removed this option from the definition. Doing so addresses the commenters’ concerns that multiple methods for calculating the rate would create confusion. We also believe this addresses the comments regarding our use of the term tenure as potentially causing confusion.

We also note that our proposed definition of teacher retention rate did not bring in the concept of certification in the State in which one teaches. Therefore, we do not believe this definition will cause the confusion identified by the commenter who was concerned about teachers who were certified to teach in multiple States.

Additionally, we revised the first option for calculating the teacher retention rate to clarify that the rate must be calculated three times for each cohort of novice teachers—after the first,

second, and third years as a novice teacher. We agree with commenters who recommended shortening the timeframe for reporting on retention from three of five years to the first three consecutive years. We made this change because the definition of recent graduate already builds in a three-year window to allow for delay in placement, and to simplify the data collection and reporting requirements associated with this indicator.

We also agree with the recommendation that States calculate a program's retention rate based on three consecutive years after individuals

become novice teachers. We believe reporting on each year for the first three years is a reasonable indicator of academic content and teaching skills in that it shows how well a program prepares novice teachers to remain in teaching, and also both promotes greater transparency and helps employers make more informed hiring decisions. We note that teacher retention rate is calculated for all novice teachers, which includes those on probationary certificates. This is further explained in the discussion of "Alternative Route Programs" in section 612.5(a)(2).

We appreciate the suggestions that we should require States to report a comparison of retention rates of novice teachers based on their evaluation ratings, but decline to prescribe this measure as doing so would create costs and complexities that we do not think are sufficiently necessary in determining a program's broad level of performance. States that are interested in such information for the purposes of transparency or accountability are welcome to consider it as another criterion for assessing program performance or for other purposes.

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Table 2a. Example of Calculations of a Teacher Retention Rate for a Single Teacher Preparation Program

Teacher	Title II Reporting Year (School Year)					
	2017 (2016-2017)	2018 (2017-2018)	2019 (2018-2019)	2020 (2019-2020)	2021 (2020-2021)	2022 (2021-2022)
A	Grad N	Y	Y	Y	Y	Y
B	Grad N	Y	Y	Y	N	N
C	Grad N	N	Y	Y	Y	Y
D	Grad N	N	N	Y	Y	Y
E	Grad N	N	N	N	Y	Y
F		Grad Y	Y	Y	Y	N
G		Grad Y	Y	N	N	N
H		Grad N	Y	Y	Y	Y
I		Grad N	N	N	Y	Y
J		Grad Y	N	N	N	N
K		Grad N	Y	N	Y	Y

When calculating teacher retention rate, it is important to first note that the academic year in which an individual met all of the requirements for program completion is not relevant. Contrary to teacher placement rate, the defining concern of a teacher retention rate calculation is the first year in which an individual becomes a teacher of record for P-12 public school students. In this example, we use the same basic

information as we did for the teacher placement rate example. As such, Table 2a recreates Table 1, with calculations for teacher retention rate instead of the teacher placement rate. However, because the first year in which an individual becomes a novice teacher is the basis for the calculations, rather than the year of program completion, we could rearrange Table 2a in the order in

which teachers first became novice teachers as in Table 2b.

In addition, Table 2b removes data on program completion, and eliminates both extraneous information before an individual becomes a novice teacher and employment information after the State is no longer required to report on these individuals for purposes of the teacher retention rate.

Table 2b. Example of Calculations of a Teacher Retention Rate for a Single Teacher Preparation Program

Teacher	Title II Reporting Year (Academic Year)				
	2018 (2017-2018)	2019 (2018-2019)	2020 (2019-2020)	2021 (2020-2021)	2022 (2021-2022)
A	Y	Y	Y	Y	
B	Y	Y	Y	N	
F	Y	Y	Y	Y	
G	Y	Y	N	N	
J	Y	N	N	N	
C		Y	Y	Y	Y
H		Y	Y	Y	Y
K		Y	N	Y	Y
D			Y	Y	Y
E				Y	Y
I				Y	Y
Teacher retention rate	State does not report this year	2017-2018 Cohort: $\frac{A + B + F + G}{A + B + F + G + J} = \frac{4}{5} = 80\%$	2017-2018 Cohort: $\frac{A + B + F}{A + B + F + G + J} = \frac{3}{5} = 60\%$ 2018-2019 Cohort: $\frac{C + H}{C + H + K}$	2017-2018 Cohort: $\frac{A + F}{A + B + F + G + J} = \frac{2}{5} = 40\%$ 2018-2019 Cohort: $\frac{C + H}{C + H + K}$	2018-2019 Cohort: $\frac{C + H}{C + H + K} = \frac{2}{3} = 66.7\%$ 2019-2020 Cohort: $\frac{D}{D}$

			$= \frac{2}{3} = \mathbf{66.7\%}$	$= \frac{2}{3} = \mathbf{66.7\%}$ 2019-2020 Cohort: $\frac{D}{D}$ $= \frac{1}{1} = \mathbf{100\%}$	$= \frac{1}{1} = \mathbf{100\%}$ 2020-2021 Cohort: $\frac{E + I}{E + I}$ $= \frac{2}{2} = \mathbf{100\%}$
NOTES: Y = Teacher of record for P-12 public school students in that year N = Not a teacher of record for P-12 public school students in that year. Dark shaded cells represent the first year that a teacher was a teacher of record for P-12 students in public schools. Light shaded cells represent years in which a State calculates and reports a teacher retention rate using data from that teacher.					

In this example, this particular teacher preparation program has five individuals who became novice teachers for the first time in the 2017–2018 academic year (Teachers A, B, F, G, and J). For purposes of this definition, we refer to these individuals as a cohort of novice teachers. As described below, the State will first calculate a teacher retention rate for this teacher preparation program in the October 2019 State report card. In that year, the State will determine how many members of the 2017–2018 cohort of novice teachers have been continuously employed through the current year. Of Teachers A, B, F, G, and J, only teachers A, B, F, and G are still teaching in 2018–2019. As such, the State calculates a teacher retention rate of 80 percent for this teacher preparation program for the 2019 State Report Card.

In the October 2020 SRC, the State is required to report on the 2017–2018 cohort and the 2018–2019 cohort. The membership of the 2017–2018 cohort does not change. From that cohort, Teachers A, B, and F were employed in both the 2018–2019 academic year and the 2019–2020 academic year. The 2018–2019 cohort consists of Teachers C, H, and K. Of those, only Teachers C and H are employed as teachers of record in the 2019–2020 academic year. Therefore, the State reports a teacher retention rate of 60 percent for the 2017–2018 cohort—because three teachers (A, B, and F) were continuously employed through the current year out of the five total teachers (A, B, F, G, and J) in that cohort—and 67 percent for the 2018–2019 cohort—because 2 teachers (C and H) were employed in the current year of the three total teachers (C, H, and K) in that cohort.

In the October 2021 SRC, the State will be reporting on three cohorts of novice teachers for the first time—the 2017–2018 cohort (A, B, F, G, and J), the 2018–2019 cohort (C, H, and K), and the 2019–2020 cohort (D). Of the 2017–2018 cohort, only Teachers A and F have been continuously employed as a teacher of record since the 2017–2018 academic year, therefore the State will report a retention rate of 40 percent for this cohort (two out of five). Of the 2018–2019 cohort, only Teachers C and H have been continuously employed since the 2018–2019 academic year. Despite being a teacher of record for the 2020–2021 academic year, Teacher K does not count towards this program's teacher retention rate because Teacher K was not a teacher of record in the 2019–2020 academic year, and therefore has not been continuously employed. The State would report a 67 percent

retention rate for the 2018–2019 cohort (two out of three). For the 2019–2020 cohort, Teacher D is still a teacher of record in the current year. As such, the State reports a teacher retention rate of 100 percent for that cohort.

Beginning with the 2022 SRC, the State no longer reports on the 2017–2018 cohort. Instead, the State reports on the three most recent cohorts of novice teachers—2018–2019 (C, H, and K), 2019–2020 (D), and 2020–2021 (E and I). Of the members of the 2018–2019 cohort, both Teachers C and H have been employed as teachers of record in each year from their first year as teachers of record through the current reporting year. Teacher K is still not included in the calculation because of the failure to be employed as a teacher of record in the 2019–2020 academic year. Therefore, the State reports a 67 percent retention rate for this cohort. Of the 2019–2020 cohort, Teacher D has been employed in each academic year since first becoming a teacher of record. The State would report a 100 percent retention rate for this cohort. Teachers E and I, of the 2020–2021 cohort, have also been retained in the 2021–2022 academic year. As such, the State reports a teacher retention rate of 100 percent in the 2022 SRC for this cohort.

Changes: We have revised the definition of teacher retention rate by removing the second and third proposed options for calculating it. We have replaced the first option with a method for calculating the percentage of novice teachers who have been continuously employed as teachers of record in each year between their first year as a novice teacher and the current reporting year. In doing so, we also clarify that the teacher retention rate is based on the percentage of novice teachers in each of the three cohorts of novice teachers immediately preceding the current title II reporting year.

Comments: None.

Discussion: Upon review of comments, we recognized that the data necessary to calculate teacher retention rate, as we had proposed to define this term, will not be available for the October 2018, 2019 and 2020 State reports. We have therefore clarified in § 612.5(a)(2)(ii) the reporting requirements for this indicator for these initial implementation years. In doing so, we have re-designated proposed § 612.5(a)(2)(ii), which permits States to assess traditional and alternative route teacher preparation programs differently based on whether there are specific components of the programs' policies or structure that affect employment outcomes, as § 612.5(a)(2)(iii).

Changes: We have added § 612.5(a)(2)(ii) to clarify that: For the October 2018 State report, the rate does not apply; for the October 2019 State report, the rate is based on the cohort of novice teachers identified in the 2017–18 title II reporting year; for the October 2020 State report, separate rates will be calculated for the cohorts of novice teachers identified in the 2017–18 and 2018–19 title II reporting years. In addition, we have re-designated proposed § 612.5(a)(2)(ii) as § 612.5(a)(2)(iii).

Teacher Survey

Comments: Commenters stated that the proposed definition of teacher survey was unclear about whether all novice teachers or only a sample of novice teachers must be surveyed. Commenters also stated that the proposed definition missed an opportunity to collect meaningful data about teacher preparation program performance because it would only require a survey of novice teachers serving in full-time teaching positions for the grade level, span, and subject area in which they were prepared, and not all the completers of programs. One commenter noted that Massachusetts plans to collect survey data from recent graduates upon completion and novice teachers after a year of employment.

Some commenters provided recommendations regarding survey content. These commenters argued that the teacher survey include questions to determine whether a teacher preparation program succeeded in the following areas, which, according to the commenters, research shows are important for preparing teachers to advance student achievement: producing student learning and raising student achievement for all students; using data to assess and address student learning challenges and successes; providing differentiated teaching strategies for students with varied learning needs, including English learners; keeping students engaged; managing classroom behavior; and using technology to improve teaching and increase student learning.

Discussion: While the proposed definition of survey outcomes provided that States would have to survey all novice teachers in their first year of teaching in the State where their teacher preparation program is located, our proposed definition of teacher survey limited this to those teachers in full-time teaching positions. We agree with the commenters' explanations for why States should need to survey all novice teachers, and not just those who are in full-time teaching positions. For clarity,

in addition to including the requirement that “survey outcomes” be of all novice teachers, which we have moved from its own definition in proposed §§ 612.2 to 612.5(a)(3), we have revised the definition of “teacher survey” accordingly. We are also changing the term “new teacher” to “novice teacher” for the reasons discussed under the definition of “novice teacher.”

However, we believe that requiring States to survey all program completers would put undue burden on States by requiring them to locate individuals who have not been hired as teachers. Rather, we believe it is enough that States ensure that surveys are conducted of all novice teachers who are in their first year of teaching. We note that this change provides consistency with the revised definition of employer survey, which is a survey of employers or supervisors designed to capture their perceptions of whether the novice teachers they employ or supervise, who are in their first year of teaching, were effectively prepared. The goal of a teacher preparation program is to effectively prepare aspiring teachers to step into a classroom prepared to teach. As the regulations seek to help States reach reasonable determinations of whether teacher preparation programs are meeting this goal, the definition of survey outcomes focuses on novice teachers in their first year of teaching. We note that the regulations do not prohibit States from surveying additional individuals or conducting their surveys of cohorts of teachers over longer periods of time, and we encourage States to consider doing so. However, considering the costs associated with further surveys of the same cohorts of novice teachers, we believe that requiring that these teachers be surveyed once, during their first year of teaching, provides sufficient information about the basic issue—how well their program prepared them to teach.

We believe that States, in consultation with their stakeholders (see § 612.4(c)), are in the best position to determine the content of the surveys used to evaluate the teacher preparation programs in their State. Therefore, the regulations do not specify the number or types of questions to be included in employer or teacher surveys.

Changes: We have revised the definition of “teacher survey” to require States to administer surveys to all novice teachers in their first year of teaching in the State.

Title II Reporting Year

Comments: None.

Discussion: Since its inception, the title II reporting system has used the term “academic year” to refer to a period of twelve consecutive months, starting September 1 and ending August 31, during which States collect and subsequently report data on their annual report cards. This period of data collection and reporting is familiar to States, institutions, and the public; however, the proposed regulations did not contain a definition of this reporting period. In order to confirm that we do not intend for States to implement the regulations in a way that changes their longstanding practice of using that “academic year” as the period for their data collection and reporting, we believe that it is appropriate to add a definition to the regulations. However, to avoid confusion with the very generic term academic year, which may mean different things at the teacher preparation program and LEA levels, we instead use the term “title II reporting year.”

Changes: We added the term “title II reporting year” under § 612.2, and defined it as a period of twelve consecutive months, starting September 1 and ending August 31.

Subpart B—Reporting Requirements

Section 612.3 What are the regulatory reporting requirements for the institutional report card?

Timeline of Reporting Requirements (34 CFR 612.3)

Comments: While there was some support for our proposal to change the IRC due date from April to October, many commenters stated that the proposed October 2017 pilot start date for the annual reporting cycle for the IRC, using data pertaining to an institution’s programs and novice teachers for the 2016–2017 academic year, would be unworkable. Several commenters therefore strongly recommended that our proposal to move the due date for the IRC up by six months to October following the end of the institutions’ academic year not be implemented.

Commenters said that the change would make it impossible to collect reliable data on several factors and on large numbers of recent students. They stated that it would be impossible to submit a final IRC by October 1 because students take State licensing assessments, as well as enter into, drop from, and complete programs through August 31, and therefore final student data, pass rates for students who took assessments used for teacher certification or licensure by the State, and other information would not be

available until September or October of each year. Other commenters indicated that, because most teacher preparation programs will need to aggregate multiple years of data to meet the program size threshold for reporting, the October submission date will unnecessarily rush the production and posting of their aggregated teacher preparation program data. Some commenters noted that changing the IRC due date to October (for reporting on students and programs for the prior academic year) would require a change in the definition of academic year because, without such a change, the October reports could not reflect scores on assessment tests that students or program completers took through August 31st. Alternatively, the proposal would require institutions to prepare and submit supplemental reports later in the year in order for the reports to fully reflect information for the prior academic year.

Some commenters also stated that LEAs have limited staffing and cannot provide assistance to institutions during the summer when data would be collected, or that because teacher hiring often occurs in August, an October IRC due date does not provide enough time to collect reliable employment data.

Discussion: We believe that the NPRM confused many commenters, leading them to believe that IRC reporting would occur in the October immediately after the end of the title II academic year on August 31. Rather, we had intended that the reporting would be on the prior year’s academic year (e.g., the October 1, 2018 IRC would report data on the 2016–2017 academic year). However, as we discuss in our response to comments on our proposals for the timing of the SRC under § 612.4(a)(1)(i) *General State Report Card reporting* and § 612.4(b) *Timeline*, we have decided to maintain the submission date for the SRC report in October, and so also maintain the due date for the IRC as April of the year following the title II reporting year.

Finally, while several commenters opined that an October date for submission of the IRC did not provide sufficient time for institutions to receive information from LEAs, we do not believe that the regulations require LEAs to submit any information to institutions for purposes of the IRC. We assume that the comments were based on a misunderstanding surrounding the data to be reported in the IRC. While our proposed indicators of program performance would require States to receive and report information from LEAs, institutions would not need to receive comparable information from

LEAs in order to prepare and submit their IRCs.

Changes: We have revised § 612.3 to provide that the first IRC under the regulations, which would cover the 2016–2017 academic year, is due not later than April 30, 2018.

Institutional Report Card (34 CFR 612.3(a))

Comments: Multiple commenters noted that the proposed regulations regarding the IRCs do not take into account all of the existing reporting demands, including not only the title II report, but also reports for national and regional accrediting bodies. Another commenter stated that, because feedback loops already exist to improve teacher preparation programs, there is no need to have a Federal report card on each teacher preparation program.

On the other hand, some commenters suggested that teacher preparation programs report the demographics and outcomes of enrolled teacher candidates by race and ethnicity. Specifically, commenters suggested reporting the graduation rates, dropout rates, placement rates for graduates, first-year evaluation scores (if available), and the percentage of teacher candidates who stay within the teaching profession for one, three, and five years. Another commenter also suggested that gender, age, grade-level, and specialized areas of study be included; and that the data be available for cross-tabulation (a method of analysis allowing comparison of the relationship between two variables). One commenter stated that because title II reporting metrics are geared to evaluate how IHEs provide training, recruitment, and education to first-time graduates of education programs, the metrics cannot be applied to alternative route certification programs, which primarily train career changers who already have a degree and content knowledge. This commenter argued that attempting to compare the results of title II metrics from alternative route certification programs and traditional IHE-based programs will result in untrue conclusions because the programs' student candidates are so different.

Another commenter suggested that, in order to ensure that States are able to separately report on the performance of alternative route preparation programs, IHEs should report whether they have a partnership agreement with alternative route providers, and identify the candidates enrolled in each of those programs. The commenter noted that, while doing so may lead States to identify groups of small numbers of alternative route program participants, it

may eliminate the possibility that candidates who actually participate in alternative route programs are identified as graduates of a traditional preparation program at the same IHE.

Another commenter stated that the variety of program academic calendars, with their different "start" and "end" dates in different months and seasons of the year, created another source of inaccurate reporting. The commenter explained that, with students entering a program on different dates, the need to aggregate cohorts will result in diffuse data that have relatively little meaning since the cohort will lose its cohesiveness. As such, the commenter stated, the data reported based on aggregate cohorts should not be used in assessing or evaluating the impact of programs on participants.

A number of commenters noted what they claimed were inherent flaws in our proposed IRC. They argued that it has not been tested for validity, feasibility, or unintended consequences, and therefore should not be used to judge the quality of teacher preparation programs.

Discussion: In response to comments that would have IHEs report more information on race, ethnicity, sex, and other characteristics of their students or graduates, the content of the IRC is mandated by section 205(a) of the HEA. Section 205(a)(C)(ii) of the HEA provides the sole information that IHEs must report regarding the characteristics of their students: "the number of students in the program (disaggregated by race, ethnicity, and gender)." Therefore, we do not have the authority to waive or change the statutorily prescribed annual reporting requirements for the IRC.

Regarding the recommendation that institutions report whether their teacher preparation programs have partnership agreements with alternative route providers, we note that section 205(a) of the HEA neither provides for IHEs to include this type of information in their IRCs nor authorizes the Secretary to add reporting elements to them. However, if they choose, States could require institutions to report such data to them for inclusion in the SRCs. We defer to States on whether they need such information and, if so, the best way to require IHEs to provide it.

In response to the comment that the IRC is unnecessary because institutions already have feedback loops for program improvement, we note that by requiring each institution to make the information in the IRC available to the general public Congress plainly intends that the report serve a public interest that goes beyond the private use the institution

may make of the reported data. We thus disagree that the current feedback loops that IHEs may have for program improvement satisfy Congress' intent in this regard.

We understand that there are differences between traditional and alternative route teacher preparation programs and that variability among programs in each category (including program start and end dates) exists. However, section 205(a) of the HEA is very clear that an IHE that conducts either a traditional or alternative route teacher preparation program must submit an IRC that contains the information Congress has prescribed. Moreover, we do not agree that the characteristics of any of these programs, specifically the demographics of the participants in these programs or whether participants have already earned an undergraduate degree, would necessarily lead to inaccurate or confusing reporting of the information Congress requires. Nor do we believe that the IRC reporting requirements are so geared to evaluate how IHEs provide training, recruitment, and education to first-time graduates of education programs that IHEs operating alternative route programs cannot explain the specifics of their responses.

We do acknowledge that direct comparisons of traditional and alternative route programs would potentially be misleading without additional information. However, this is generally true for comparisons of all types of programs. For example, a comparison of average cost of tuition and fees between two institutions could be misleading without the additional context of the average value of financial aid provided to each student. Simply because analyzing specific data out of context could potentially generate confusion does not mitigate the value of reporting the information to the general public that, as we have noted, Congress requires.

With specific regard to the fact that programs have different operating schedules, the IRC would have all IHEs report on students participating in teacher preparation programs during the reporting year based on their graduation date from the program. This would be true regardless of the programs' start date or whether the students have previous education credentials. We also believe the IRC would become too cumbersome if we tried to tailor the specific reporting requirements in section 205(a) of the HEA to address and reflect each individual program start time, or if the regulations created different reporting structures based on the program start time or the previous

career or educational background of the program participants.

Furthermore, we see no need for any testing of data reported in the IRC for validity, feasibility, or unintended consequences. The data required by these regulations are the data that Congress has specified in section 205(a) of the HEA. We do not perceive the data elements in section 205(a) as posing any particular issues of validity. Just as they would in any congressionally mandated report, we expect all institutions to report valid data in their IRCs and, if data quality issues exist we expect institutions will address them so as to meet their statutory obligations. Further, we have identified no issues with the feasibility of reporting the required data. While we have worked to simplify institutional reporting, institutions have previously reported the same or similar data in their IRCs, albeit at a different level of aggregation. Finally, we fail to see any unintended consequences that follow from meeting the statutory reporting requirements. To the extent that States use the data in the IRC to help assess whether a program is low-performing or at-risk of being low-performing under section 207(a) of the HEA, under our regulations this would occur only if, in consultation with their stakeholders under § 612.4(c), States decide to use these data for this purpose. If institutions are concerned about such a use of these data, we encourage them to be active participants in the consultative process.

Changes: None.

Prominent and Prompt Posting of Institutional Report Card (34 CFR 612.3(b))

Comments: Multiple commenters supported the requirement to have each IHE post the information in its IRC on its Web site and, if applicable, on the teacher preparation program's own Web site. Based on the cost estimates in the NPRM, however, several commenters raised concerns about the ability of IHEs to do so.

Discussion: We appreciate the commenters' support for our proposal as an appropriate and efficient way for IHEs to meet their statutory responsibility to report annually the content of its IRC to the general public (see section 205(a)(1) of the HEA).

We discuss the comments regarding concerns about the cost estimates in the *IRC Reporting Requirements* section of the *Discussion of Costs, Benefits, and Transfers* in this document.

Changes: None.

Availability of Institutional Report Card (34 CFR 612.3(c))

Comments: One commenter recommended that we mandate that each IHE provide the information contained in its IRC in promotional and other materials it makes available to prospective students, rather than leaving it to the discretion of the institution.

Discussion: While we believe that prospective students or participants of a teacher preparation program need to have ready access to the information in the institution's IRC, we do not believe that requiring the IHE to provide this information in its promotional materials is either reasonable or necessary. We believe that the costs of doing so would be very large and would likely outweigh the benefits. For example, many institutions may make large printing orders for pamphlets, brochures, and other promotional materials that get used over the course of several years. Requiring the inclusion of IRC information in those materials would require that institutions both make these promotional materials longer and print them more often. As the regulations already mandate that this information be prominently posted on the institution's Web site, we fail to see a substantial benefit to prospective students that outweighs the additional cost to the institution.

However, while not requiring the information to be included in promotional materials, we encourage IHEs and their teacher preparation programs to provide it in places that prospective students can easily find and access. We believe IHEs can find creative ways to go beyond the regulatory requirements to provide this information to students and the public without incurring significant costs.

Changes: None.

Section 612.4 What are the regulatory reporting requirements for the State report card?

General (34 CFR 612.4(a))

Comments: None.

Discussion: As proposed, § 612.4(a) required all States to meet the annual reporting requirements. For clarity, we have revised this provision to provide, as does section 205(b) of the HEA, that all States that receive HEA funds must do so.

Changes: We have revised § 612.4(a) to provide that all States that receive funds under the HEA must meet the reporting requirements required by this regulation.

General (Timeline) (34 CFR 612.4(a)(1)(i)) and Reporting of Information on Teacher Preparation Program Performance (Timeline) (34 CFR 612.4(b))

Comments: Many commenters expressed concern with their State's ability to build data systems and to collect and report the required data under the proposed timeline.

Commenters noted that the proposed timeline does not allow States enough time to implement the proposed regulations, and that the associated logistical challenges impose undue and costly burdens on States. Commenters noted that States need more time to make decisions about data collection, involve stakeholders, and to pilot and revise the data systems—activities that they said cannot be completed in one year.

Several commenters recommended extending the timeline for implementation by at least five years. Some commenters suggested delaying the reporting of program ratings until at least 2021 to give States more time to create data linkages and validate data. Other commenters pointed out that their States receive employment and student learning data from LEAs in the fall or winter, which they said makes reporting outcomes in their SRCs in October of each year, as we had proposed, impossible. Still other commenters noted that some data, by their nature, may not be available to report by October. Another commenter suggested that institutions should report in October, States should report outcome data (but not performance designations) in February, and then the States should report performance designations in June, effectively creating an additional reporting requirement. To address the timing problems in the proposed schedule for SRC submission, other commenters recommended that the Department continue having States submit their SRCs in October. On the other hand, some commenters supported or encouraged the Department to maintain the proposed timelines.

Many commenters stated that no State currently implements the proposed teacher preparation program rating system. Therefore, to evaluate effectiveness, or to uncover unintended consequences, these commenters emphasized the importance of permitting States to develop and evaluate pilot programs before broader implementation. Some commenters therefore recommended that the proposed implementation timeline be delayed until the process had been

piloted and evaluated for efficiency while others recommended a multiyear pilot program.

Discussion: We appreciate the comments supporting the proposed reporting timeline changes to the SRC. However, in view of the public's explanation of problems that our proposed reporting schedule could cause, we are persuaded that the title II reporting cycle should remain as currently established—with the institutions submitting their IRCs in April of each year, and States submitting their SRCs the following October. IHEs and States are familiar with this schedule, and we see that our proposal to switch the reporting dates, while having the theoretical advantage of permitting the public to review information much earlier, was largely unworkable.

Under the final regulations, the initial SRC (a pilot) would be due October 31, 2018, for the 2016–2017 academic year. The October 2018 due date provides much more time for submission of the SRC. As we note in the discussion of comments received on § 612.3(a) (Reporting Requirements for the IRC), IHEs will continue to report on their programs, including pass rates for students who took assessments used for initial certification or licensure by the State in which the teacher preparation program is located, from the prior academic year, by April 30 of each year. States therefore will have these data available for their October 31 reporting. Because the outcome data States will need to collect to help assess the performance of their teacher preparation programs (*i.e.*, student learning outcomes, employment outcomes, and survey outcomes) would be collected on novice teachers employed by LEAs from the prior school year, these data would likewise be available in time for the October 31 SRC reporting. Given this, we believe all States will have enough time by October 31 of each year to obtain the data they need to submit their SRCs. In addition, since States are expected to periodically examine the quality of their data collection and reporting under § 612.4(c)(2), we expect that States have a process by which to make modifications to their system if they desire to do so.

By maintaining the current reporting cycle, States will have a year (2016–2017) to design and implement a system. The 42 States, District of Columbia, and the Commonwealth of Puerto Rico that were previously granted ESEA flexibility are therefore well positioned to meet the requirements of these regulations because they either already have the

systems in place to measure student learning outcomes or have worked to do so. Moreover, with the flexibility that § 612.5(a)(1)(ii) now provides for States to measure student learning outcomes using student growth, a teacher evaluation measure, or another State-determined measure relevant to calculating student learning outcomes (or any combination of these three), all States should be able to design and implement their systems in time to submit their initial reports by October 31, 2018. Additionally, at least 30 States, the District of Columbia, and the Commonwealth of Puerto Rico either already have the ability to aggregate data on the achievement of students taught by recent graduates and link those data back to teacher preparation programs. Similarly, as discussed below, 30 States already implement teacher surveys that could be modified to be used in this accountability system.

Particularly given the added flexibility in § 612.5(a)(1)(ii), as most States already have or are well on their way to having the systems required to implement the regulations, we are confident that the reduction in time to prepare before the pilot SRC will be prepared and submitted will prove to be manageable. We understand that some States will not have complete datasets available for all indicators during initial implementation, and so may need to make adjustments based on experience during the pilot year. We also stress that the October 2018 SRC is a pilot report; any State identification of a program as low-performing or at-risk of being low-performing included in that report would not have implications either for the program generally or for that program's eligibility to participate in the TEACH Grant program. Full SRC reporting begins in October 2019.

In addition, maintaining the SRC reporting date of October 31 also is important so that those who want to apply for admission to teacher preparation programs and for receipt of TEACH Grants as early as January of the year they wish to begin the program know which IHEs have programs that States have identified in their SRCs as at-risk or low-performing. Prospective students should have this information as soon as they can so that they know both the State's assessment of each program's level of performance and which IHEs lack authority to award TEACH Grants. See our response to public comment regarding the definition of a TEACH Grant-eligible institution in § 686.2.

In summary, under our revised reporting cycle, the SRC is due about five months earlier than in the proposed

regulations. However, because the report due October 31, 2018 is a pilot report, we believe that States will have sufficient time to complete work establishing their reporting and related systems to permit submission of all information in the SRC by the first full reporting date of October 31, 2019. While we appreciate the comments suggesting that States be able to develop and evaluate pilot programs before broader implementation, or that the implementation timeline be delayed until the State process has been piloted and evaluated for efficiency, we do not believe that adding more time for States to develop their systems is necessary. Lastly, maintaining the existing timeline does not affect the timing of consequences for TEACH Grants for at-risk or low-performing teacher preparation programs. Under the regulations, the TEACH Grant consequences would apply for the 2021–2022 award year.

Changes: We have revised § 612.4(a) to provide that State reports under these final regulations would be due on October 31, 2018. We also changed the date for SRC reporting to October wherever it appears in the final regulations.

Comments: Some commenters expressed concern with States' ability to implement valid and reliable surveys in the time provided. Commenters argued that issues related to who to survey, when to survey, and how often to survey would make this the most challenging performance indicator to develop, implement, and use for determining a program's performance level. Commenters stated that an institution's capacity to track graduates accurately and completely is highly dependent on the existence of sophisticated State data systems that track teacher employment and on appropriate incentives to assure high response rates to surveys, noting that many States do not have such systems in place and some are just beginning to implement them. Commenters suggested that the Department consider easing the timeline for implementation of surveys to reduce the cost and burden of implementation of surveys.

Discussion: According to the GAO survey of States, 30 States have used surveys that assessed principals' and other district personnel's satisfaction with recent traditional teacher preparation program graduates when evaluating programs seeking State approval.¹⁴ We believe these States can modify these existing survey instruments to develop teacher and

¹⁴ GAO at 13.

employer surveys that comply with the regulations without substantial additional burden. Additionally, States that do not currently use such surveys may be able to shorten the time period for developing their own surveys by using whole surveys or individual questions already employed by other States as a template. States may also choose to shorten the time required to analyze survey results by focusing on quantitative survey responses (e.g., score on a Likert scale or number of hours of training in a specific teaching skill) rather than taking the time to code and analyze qualitative written responses. However, we note that, in

many instances, qualitative responses may provide important additional information on program quality. As such, States could opt to include qualitative questions in their surveys and send the responses to the applicable teacher preparation programs for their own analysis. With a far smaller set of responses to analyze, individual programs would be able to review and respond much more quickly than the State. However, these are decisions left to the States and their stakeholders to resolve.

Changes: None.

Comments: A number of commenters indicated confusion about when particular aspects of the proposed IRC

and SRC are to be reported and recommended clarification.

Discussion: We agree with the recommendation to clarify the reporting of cohorts and metrics for reporting years. The chart below outlines how certain metrics will be reported and the reporting calendar. We understand that the information reported on the SRC may differ from the example provided below because initially some data may be unavailable or incomplete. In these instances, we expect that States will weight indicators for which data are unavailable in a way that is consistent and applies equivalent levels of accountability across programs.

TABLE 3—IMPLEMENTATION AND REPORTING CALENDAR EXAMPLE

Year	2018	2019	2020	2021	2022
Institutional Report Card (IRC)					
IRC Due Date	April 30, 2018	April 30, 2019	April 30, 2020	April 30, 2021	April 30, 2022.
Pass Rate	Recent graduates (from AY 2016–17).	Recent graduates (from AY 2017–18).	Recent graduates (from AY 2018–19).	Recent graduates (from AY 2019–20).	Recent graduates (from AY 2020–21).
State Report Card (SRC)					
SRC Due Date	October 31, 2018 (Pilot).	October 31, 2019	October 31, 2020	October 31, 2021	October 31, 2022.
Placement Rate	C1	C1, C2	C1, C2, C3	C2, C3, C4	C3, C4, C5.
Retention Rate	N/A	C1	C1, C2	C1, C2, C3	C2, C3, C4.
Student Learning Outcomes.	C1	C1, C2	C1, C2, C3	C2, C3, C4	C3, C4, C5.
Survey Outcomes	C1	C2	C3	C4	C5.
TEACH Eligibility					
	Not impacted	Not impacted	Impacts 2021–22 Award Year.	Impacts 2022–23 Award Year.	Impacts 2023–24 Award Year.

Academic Year (AY): Title II academic year runs from September 1 to August 31.

Award year: Title IV award year runs from July 1 to June 30.

Note: Data systems are to be designed and implemented during the 2016–17 school year.

C1: Cohort 1, novice teachers whose first year in the classroom is 2017–18.

C2: Cohort 2, novice teachers whose first year in the classroom is 2018–19.

C3: Cohort 3, novice teachers whose first year in the classroom is 2019–20.

C4: Cohort 4, novice teachers whose first year in the classroom is 2020–21.

C5: Cohort 5, novice teachers whose first year in the classroom is 2021–22.

Changes: None.

Comments: To reduce information collection and dissemination burden on States, a commenter asked that the Department provide a mechanism for rolling up IRC data into the State data systems.

Discussion: The Department currently provides a system by which all IHEs may electronically submit their IRC data, and which also prepopulates the SRC with relevant information from the IRCs. We intend to continue to provide this system.

Changes: None.

Comments: Some commenters stated that States should be able to replace the SRC reporting requirements in these regulations with their own State-defined

accountability and improvement systems for teacher preparation programs.

Discussion: We disagree that States should be able to replace the SRC reporting requirements with their own State-defined accountability and improvement systems for teacher preparation programs. Section 205(b) of the HEA requires reporting of the elements in the SRC by any State that receives HEA funding. The measures included in the regulations are either specifically required by that provision or are needed to give reasonable meaning to the statutorily required indicators of academic content knowledge and teaching skills a State must use to assess a teacher preparation

program's performance. However, § 612.5(b) specifically permits a State to assess a program's performance using additional indicators predictive of a teacher's effect on student performance, provided that it uses the same indicators for all teacher preparation programs in the State. Following stakeholder consultation (see § 612.4(c)), States are free to adopt criteria for assessing program performance beyond those addressed in the regulations.

Changes: None.

Comments: Some commenters recommended that the Department provide adequate time for States to examine and address the costs of tracking student progress and academic

gains for teacher preparation program completers who teach out of State.

Discussion: Section 612.5(a)(1) has been revised to clarify that States may exclude data regarding teacher performance, or student academic progress or growth, for calculating a program's student learning outcomes for novice teachers who teach out of State (and who teach in private schools). See also the discussion of comments for § 612.5(a)(1) (student learning outcomes). To the extent that States wish to include this information, they can continue to pilot and analyze data collection quality and methodology for a number of years before including it in their SRCs.

Changes: None.

Comments: One commenter specifically recommended laddering in the proposed performance criteria only after norming has occurred. We interpret this comment to mean that States should have time to collect data on the required indicators for multiple years on all programs and use that data to establish specific thresholds for acceptable program performance on each indicator. This would require a longer timeline before using the indicators to assess program performance than the Department had proposed.

Discussion: We will not require "laddering in" the criteria in § 612.5 only after norming has occurred, as the commenter suggested, because we believe that States should be able to set identifiable targets for these criteria without respect to the current distribution of program for an indicator (e.g., a teacher retention rate of less than 50 percent as an indicator of low performance). These regulations are not intended to have States identify any particular percentage of teacher preparation programs as low-performing or at-risk of being low-performing. Rather, while they establish indicators that each State will use and report, they leave the process for how it determines a teacher preparation program's overall rating to the discretion of the State and its consultative group. If States wish to incorporate norming, norming around specific performance thresholds could be completed during the pilot year and, over time, performance thresholds can be adjusted during the periodic examinations of the evaluation systems that States must conduct.

Changes: None.

Comments: Some commenters noted that having States assess the performance of teacher preparation programs on a yearly basis seems likely to drain already limited State and institutional resources.

Discussion: Section 207(a) of the HEA expressly requires States to provide an "annual list of low-performing [and at-risk] teacher preparation programs." We believe that Congress intended the State program assessment requirement itself also to be met annually. While we have strived to develop a system that keeps costs manageable, we also believe that the improvement of teacher preparation programs and consumers' use of information in the SRC on program performance necessitate both annual reporting and program determinations.

Changes: None.

Comments: A number of commenters stated that the availability of student growth and achievement data that are derived from State assessment results and district-determined measures are subject to State legislative requirements and, if the legislature changes them, the State assessments given or the times when they are administered could be drastically impacted. One commenter stated that, because the State operates on a biennial budget cycle, it could not request authority for creating the administrative position the State needs to comply with the proposed regulations until the 2017–2019 budget cycle.

Discussion: We understand that the availability of data States will need to calculate student learning outcomes for student achievement in tested grades and subjects depends to some extent on State legislative decisions to maintain compatible State assessments subject to section 1111(b)(2) of the ESEA, as amended by the ESSA. But we also assume that State legislatures will ensure that their States have the means to comply with this Federal law, as well as the means to permit the State to calculate student growth based on the definition of "student achievement in tested grades and subjects" in § 612.2. Moreover, we believe that our decision to revise § 612.5(a)(1)(ii) to include an option for States to use "another State-determined measure relevant to calculating student learning outcomes" should address the commenters' concerns.

In addition, the commenter who raised concerns based on the State legislature being in session on only a biennial basis did not provide enough information to permit us to consider why this necessarily bars the State's compliance with these regulations.

Changes: None.

Program-Level Reporting (Including Distance Education) (34 CFR 612.4(a)(1)(i))

Comments: Some commenters supported the shift to reporting at the individual teacher preparation program

rather than at the overall institutional level. A couple of commenters agreed that States should perform assessments of each program, but be allowed to determine the most appropriate way to include outcomes in the individual program determinations, including determining how to roll-up outcomes from the program level to the entity level. Other commenters noted that States should be required to report outcomes by the overall entity, rather than by the individual program, because such reporting would increase the reliability of the measures and would be less confusing to students. Some commenters expressed concerns that only those programs that have data demonstrating their graduates' effectiveness in the public schools in the State where the institution is located would receive a top rating, and entity-level reporting and rating would reduce this concern. If States report by entity, they could report the range in data across programs in addition to the median, or report data by quartile. This would make transparent the differences within an entity while maintaining appropriate thresholds.

Commenters also stated that there are too many variations in program size and, as we understand the comment, in the way States credential their teacher preparation programs to mandate a single Federal approach to disaggregated program reporting for the entire Nation.

Discussion: We appreciate the comments supporting the shift to reporting at the program level. The regulations provide extensive flexibility to States to determine how to measure and use outcomes in determining program ratings. If a State wishes to aggregate program level outcomes to the entity level, it is free to do so, though such aggregation would not replace the requirements to report at the program level unless the program (and the method of aggregation) meets the small-size requirements in § 612.4(b)(3)(ii). Regarding the comment that reporting at the institutional level is more reliable, we note that the commenter did not provide any additional context for this statement, though we assume this statement is based on a generalized notion that data for the institution as a whole might be more robust because of the overall institution's much larger number of recent graduates. While we agree that aggregation at a higher level would generate more data for each indicator, we believe that the program size threshold in § 612.5(b)(3) sufficiently addresses this concern while also ensuring that the general public and prospective students have access to data that are as specific as

possible to the individual programs operated by the institution.

We fail to understand how defining a teacher preparation program as we have, in terms of initial State teacher certification or licensure in a specific field, creates concerns that top ratings would only go to programs with data showing the effectiveness of graduates working in public schools in the State. So long as the number of novice teachers the program produces meets the minimum threshold size addressed in § 612.4(b)(3) (excluding, at the State's discretion, teachers teaching out of State and in private schools from determinations of student learning outcomes and teacher placement and retention rates as permitted by § 612.5(a)(1) and § 612.2, respectively), we are satisfied that the reporting of program information will be sufficiently robust and obviate concerns about data reliability.

Moreover, we disagree with the comments that students would find reporting of outcomes at the institution level less confusing than reporting at the teacher preparation program level. We believe students want information about teacher preparation programs that are specific to the areas in which they want to teach so they can make important educational and career decisions, such as whether to enroll in a specific teacher preparation program. This information would be presented most clearly at the teacher preparation program level rather than at the institutional level, where many programs would be collapsed such that a student would not only lack information about whether a specific program in which she is interested is low-performing or at risk of being low-performing, but also be unable to review data relative to indicators of the program's performance.

We also disagree with the claim that program level reporting as required under these regulations is inappropriate due to the variation in program size and structure across and within States. Since the commenters did not provide an example of how the requirements of these regulations make program level reporting impossible to implement, we cannot address these concerns more specifically than to say that since use of indicators of program performance will generate information unique to each program, we fail to see why variation in program size and structure undermine these regulations.

Changes: None.

Comments: There were many comments related to the reporting of information for teacher preparation programs provided through distance education. Several commenters

indicated that the proposed regulations are unclear on how the reporting process would work for distance education programs large enough to meet a State's threshold for inclusion on their report card (see § 612.4(b)(3)), but that lack a physical presence in the State. Commenters indicated that, under our proposed regulations, States would need to identify out-of-State institutions (and their teacher preparation programs) that are serving individuals within their borders through distance education, and then collect the data, analyze it, and provide assessments on these programs operated from other States. Thus, commenters noted, States may need more authority either through regulatory action or legislation to be able to collect information from institutions over which they do not currently have authority.

Commenters also requested that the Department clarify what would happen to distance education programs and their currently enrolled students if multiple States would be assessing a single program's effectiveness and doing so with differing results. One commenter suggested a "home State" model in which, rather than developing ratings for each program in each State, all of a provider's distance education programs would be evaluated by the State in which the provider, as opposed to the program participants, is physically located. The commenter argued that this model would increase the reliability of the measures and decrease student confusion, especially where comparability of measures between States is concerned. Unless such a home State model is adopted, the commenter argued, other States may discriminate against programs physically located and operated in other States by, as we understand the comment, using the process of evaluating program performance to create excessive barriers to entry in order to protect in-State institutions. Another commenter asked that the proposed regulations provide a specific definition of the term "distance education."

Several commenters expressed support for the change to § 612.4(a)(1)(ii) proposed in the Supplemental NPRM, which would require that reporting on the quality of all teacher preparation programs provided through distance education in the State be made by using procedures for reporting that are consistent with § 612.4(b)(4), but based on whether the program produces at least 25 or fewer than 25 new teachers whom the State certified to teach in a given reporting year.

While commenters indicated that reporting on hybrid teacher preparation programs was a complicated issue, commenters did not provide recommendations specific to two questions regarding hybrid programs that were posed in the Supplemental NPRM. The first question asked under what circumstances, for purposes of both reporting and determining the teacher preparation program's level of overall performance, a State should use procedures applicable to teacher education programs offered through distance education and when it should use procedures for teacher preparation programs provided at brick-and-mortar institutions. Second, we asked, for a single program, if one State uses procedures applicable to teacher preparation programs provided through distance education, and another State uses procedures for teacher preparation programs provided at brick-and-mortar institutions, what are the implications, especially for TEACH Grant eligibility, and how these inconsistencies should be addressed.

In response to our questions, many commenters indicated that it was unclear how to determine whether a teacher preparation program should be classified as a teacher preparation program provided through distance education for reporting under § 612.4(a)(1)(ii) and asked for clarification regarding how to determine under what circumstances a teacher preparation program should be considered a teacher preparation program provided through distance education. One commenter recommended that we define a teacher preparation program provided through distance education program to be one where the full and complete program can be completed without an enrollee ever being physically present at the brick-and-mortar institution or any of its branch offices.

Commenters expressed a number of concerns about reporting. Some commenters indicated that while the December 3, 2014, NPRM allowed States to report on programs that produced fewer than 25 new teachers, it was unclear whether the same permission would be applied to distance education programs through the Supplemental NPRM. Additionally, a few commenters thought that, in cases where students apply for certification in more than one State, the outcomes of a single student could be reported multiple times by multiple States. Other commenters felt that if States are expected to evaluate distance education graduates from other States' programs, the regulations should be revised to focus on programs that are

tailored to meet other States' requirements. A commenter suggested that the State in which a distance education program is headquartered should be responsible for gathering the data reported by the other States in which the program operates and then, using their data along with other States' data, that State where the program is headquartered should make the determination as to the performance rating of that program. Doing so would establish one rating for each distance education program, which would come from the State in which it is headquartered. The commenter expressed that this would create a simplified rating system similar to brick-and-mortar institutions. Another commenter stated that the proposed approach would force the States to create a duplicative and unnecessary second tracking system through their licensure process for graduates of their own teacher preparation programs provided through distance education who remain in the State.

Many commenters voiced concerns related to the identification and tracking of distance education programs provided through distance education. Specifically, commenters indicated that, because the method by which a teacher preparation program is delivered is not transcribed or officially recorded on educational credentials, the receiving State (the State where the teacher has applied for certification) has no way to distinguish teacher preparation programs provided through distance education from brick-and-mortar teacher preparation programs. Furthermore, receiving States would not be able to readily distinguish individual teacher preparation programs provided through distance education from one another.

Finally, a commenter stated that the proposed regulations do not require States to provide any notice of their rating, and do not articulate an appeal process to enable institutions to challenge, inspect, or correct the data and information on the basis of which they might have received an adverse rating. Commenters also indicated that teacher preparation programs themselves should receive data on States' student and program evaluation criteria.

Discussion: Regarding comments that the regulations need to describe how teacher preparation programs provided through distance education programs should be reported, we intended for a State to report on these programs operating in that State in the same way it reports on the State's brick-and-mortar teacher preparation programs.

We appreciate commenters' expressions of support for the change to the proposed regulations under § 612.4(a)(1)(ii), as proposed in the Supplemental NPRM, requiring that reporting on the quality of all teacher preparation programs provided through distance education in the State be made by using procedures for reporting that are consistent with proposed § 612.4(b)(4), but based on whether the program produces at least 25 or fewer than 25 new teachers whom the State certified to teach in a given reporting year. In considering the language of proposed § 612.4(a)(1)(ii) and the need for clarity on the reporting requirements for teacher preparation programs provided through distance education, we have concluded that the provision would be simpler if it simply incorporated by reference the reporting requirements for those programs in § 612.4(b)(3) of the final regulations.

While we agree with the commenters who stated that the proposed regulations were unclear on what constitutes a teacher preparation program provided through distance education, we decline to accept the recommendation to define a distance education program where the full and complete program can be completed without an enrollee ever being physically present at the brick-and-mortar institution or any of its branch offices because this definition would not be inclusive of teacher preparation programs providing significant portions of the program through distance education. In addition, the proposed definition would allow the teacher preparation program to easily modify its requirements such that it would not be considered a teacher preparation program provided through distance education.

Instead, in order to clarify what constitutes a teacher preparation program provided through distance education, we are adding the term "teacher preparation program provided through distance education" to § 612.2 and defining it as a teacher preparation program in which 50 percent or more of the program's required coursework is offered through distance education. The term distance education is defined under 34 CFR 600.2 to mean education that uses one or more specified technologies to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between the students and the instructor, either synchronously or asynchronously. The technologies may include the internet; one-way and two-way transmissions through open broadcast, closed circuit,

cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices; audio conferencing; or video cassettes, DVDs, and CD-ROMs, if the cassettes, DVDs, or CD-ROMs are used in a course in conjunction with any of the technologies previously in this definition. We have incorporated this definition by reference (see § 612.2(a)).

In the Supplemental NPRM, we specifically requested public comment on how to determine when a program that has both brick-and-mortar and distance education components should be considered a teacher preparation program provided through distance education. While we received no suggestions, we believe that it is reasonable that if 50 percent or more of a teacher preparation program's required coursework is offered through distance education, it should be considered a teacher preparation program provided through distance education because the majority of the program is offered through distance education. This 50 percent threshold is consistent with thresholds used elsewhere in Departmental regulations, such as those relating to correspondence courses under 34 CFR 600.7 or treatment of institutional eligibility for disbursement of title IV HEA funds for additional locations under 34 CFR 600.10(b)(3).

In addition, we do not agree with the suggestion for a "home State" reporting model, in which all of a provider's distance education programs would be evaluated by the State in which the provider is physically located. First, section 205(b) of the HEA requires States to report on the performance of their teacher preparation programs. We feel strongly both that, to date, defining the program at the institutional level has not produced meaningful results, and that where programs provided through distance education prepare individuals to teach in different States, those States—and not only the "home State"—should assess those programs' performance. In addition, we believe that each State should, as the law anticipates, speak for itself about what it concludes is the performance of each teacher preparation program provided through distance education operating within its boundaries. Commenters did not provide any evidence to support their assertion that States would discriminate against distance learning programs physically located in other States, nor do we understand how they would do so if, as § 612.4(a) anticipates, they develop and apply the same set of criteria (taking into consideration the need to have different employment

outcomes as provided in § 612.4(b)(2) given the nature of these programs) for assessing the performance of brick-and-mortar programs and programs provided through distance education programs.

Regarding reporting concerns, we provide under § 612.4(b)(3)(i) for annual reporting on the performance of each teacher preparation program that produces a total of 25 or more recent graduates in a given reporting year (that is, a program size threshold of 25), or, at the State's discretion, a lower program size threshold (e.g., 15 or 20). Thus, States can use a lower threshold than the 25 recent graduates. We do not agree that in cases where students apply for certification in more than one State, a single student would necessarily be counted multiple times. For calculations of the placement rate for a program provided through distance education, the student who teaches in one State but who has received teaching certification in that State and others would be included in the denominator of placement rates calculated by these other States only if those States chose not to exclude recent graduates teaching out of State from their calculations. (The same would be true of graduates of brick-and-mortar programs.) But those other States would only report and use a placement rate in assessing the performance of programs provided through distance education if they have graduates of those programs who are certified in their States (in which case the program size threshold and aggregation procedures in § 612.4(b) would apply).

Further, for the purposes of the teacher placement rate, § 612.5(a)(2)(iv) permits a State, at its discretion, to assess the teacher placement rate for teacher preparation programs provided through distance education differently from the teacher placement rate for other teacher preparation programs based on whether the differences in the way the rate is calculated for teacher preparation programs provided through distance education affect employment outcomes.

States that certify at least 25 teachers from a teacher preparation program provided through distance education do have an interest in that program and will be reporting on the program as a program in their States. Moreover, we disagree that States in which distance education programs are headquartered should round up data from other States, determine a performance rating, and report it for several reasons. In addition to placing a higher cost and burden on a particular State, this methodology would undermine the goal of States having a say in the quality of the

program that is being used to certify teachers in the State. The State where a teacher preparation program operating in multiple States is housed is not the only State with an interest in the program. Finally, we do not believe that the regulations would force States to create a duplicative and unnecessary second tracking system because a State is already required to report on teacher preparation programs in the State.

We agree with commenters' concerns regarding the identification and tracking of teacher preparation programs provided through distance education. To address this concern, institutions will be asked to report which of their teacher preparation programs are teacher preparation programs provided through distance education in the IRC, which the institutions provide to the State. The receiving State can then verify this information during the teacher certification process for a teacher candidate in the State.

We note that an appeal process regarding a teacher preparation program's performance is provided for under § 612.4(c). We also note that teacher preparation programs will have access to data on States' student and program evaluation criteria because State report cards are required to be publicly available.

Changes: We are adding the term "teacher preparation program provided through distance education" to § 612.2 and defining it as a teacher preparation program in which 50 percent or more of the program's required coursework is offered through distance education. We are also providing under § 612.4(a)(1)(ii) that States must report on the quality of all teacher preparation programs provided through distance education in the State consistent with § 612.4(b)(3).

Making the State Report Card Available on the State's Web Site (34 CFR 612.4(a)(2))

Comments: One commenter supported the proposed change that any data used by the State to help evaluate program performance should be published at the indicator level to ensure that programs understand the areas they need to improve, and to provide additional information to students about program success. Other commenters stated that posting SRCs does not lead to constructive student learning or to meeting pre-service preparation program improvement goals. Many commenters stated that the method by which States would share information with consumers to ensure understanding of a teacher preparation program's employment outcomes or overall rating is not stipulated in the

regulations and, furthermore, that the Department does not specifically require that this information be shared.

Discussion: We appreciate the comment supporting publication of the SRC data on the State's Web site. The regulation specifically requires posting "the State report card information" on the Web site, and this information includes all data that reflect how well a program meets indicators of academic content and teaching skills and other criteria the State uses to assess a program's level of performance, the program's identified level of performance, and all other information contained in the SRC.

While posting of the SRC data on the State's Web site may not lead directly to student learning or teacher preparation program improvement, it does provide the public with basic information about the performance of each program and other, broader measures about teacher preparation in the State. Moreover, making this information widely available to the general public is a requirement of section 205(b)(1) of the HEA. Posting this information on the State's Web site is the easiest and least costly way for States to meet this requirement. We also note that the commenters are mistaken in their belief that our proposed regulations did not require that information regarding teacher preparation programs be shared with consumers. Proposed § 612.4(a)(2) would require States to post on their Web sites all of the information required to be included in their SRCs, and these data include the data on each program's student learning outcomes, employment outcomes, and survey outcomes, and how the data contribute to the State's overall evaluation of the program's performance. The final regulations similarly require the State to include all of these data in the SRC, and § 612.4(a)(2) specifically requires the State to make the same SRC information it provides to the Secretary in its SRC widely available to the general public by posting it on the State's Web site.

Changes: None.

Meaningful Differentiations in Teacher Preparation Program Performance (34 CFR 612.4(b)(1))

Comments: Multiple commenters expressed general opposition to our proposal that in the SRC the State make meaningful differentiation of teacher preparation program performance using at least four performance levels. These commenters stated that such ratings would not take into account the uniqueness of each program, such as the program's size, mission, and diversity,

and therefore would not provide an accurate rating of a program.

Others noted that simply ascribing one of the four proposed performance levels to a program is not nuanced or sophisticated enough to fully explain the quality of a teacher preparation program. They recommended removing the requirement that SEAs provide a single rating to each program, and allow States instead to publish the results of a series of performance criteria for each program.

Discussion: As noted under § 612.1, we have withdrawn our proposal to require States to identify programs that are exceptional. Therefore, § 612.4(b)(1), like section 207(a) of the HEA, requires States in their SRCs to identify programs as being low-performing, at-risk of being low-performing, or effective or better, with any additional categories established at the State's discretion. This revised rating requirement mirrors the requirements of section 207(a) the HEA for reporting programs that are low-performing or at-risk of being low-performing (and thus by inference also identifying those programs that are performing well).

States cannot meet this requirement unless they establish procedures for using criteria, including indicators of academic content knowledge and teaching skills (see § 612.4(b)(2)(i)), to determine which programs are classified in each category. The requirement of § 612.4(b)(1) that States make meaningful differentiation of teacher preparation program performance using at least these three categories simply gives this statutory requirement regulatory expression. While § 612.4(b)(1) permits States to categorize teacher preparation programs using more than three levels of performance if they wish, the HEA cannot be properly implemented without States making meaningful differentiation among programs based on their overall performance.

We do not believe that these regulations disregard the uniqueness of each program's size, mission, or diversity, as they are intended to provide a minimum set of criteria with which States determine program performance. They do not prescribe the methods by which programs meet a State's criteria for program effectiveness.

Changes: We have revised § 612.4(b)(1) by removing the proposed fourth program performance level, "exceptional teacher preparation program," from the rating system.

Comments: Commenters, for various reasons, opposed our proposal to require States, in making meaningful differentiation in program performance,

to consider employment outcomes in high-need schools and student learning outcomes "in significant part." Some commenters requested clarification on what "significant" means with regard to weighting employment outcomes for high-need schools and student learning outcomes in determining meaningful differentiations of teacher preparation programs. Commenters also noted that including employment outcomes for high-need schools will add another level of complexity to an already confusing and challenging process. Some commenters recommended the Department maintain the focus on teacher placement and retention rates, but eliminate the incentives to place recent graduates in high-need schools. They stated that doing so will permit these indicators to focus on the quality of the program without requiring the program to have a focus on having its students teach in high-need schools, something that may not be in the mission of all teacher preparation programs.

Multiple other commenters expressed confusion about whether or not the regulations incentivize placement in high-need schools by making such placement a significant part of how States must determine the rating of a teacher preparation program. Some commenters argued that, on the one hand, the requirement that States use student learning outcomes to help assess a program's overall performance could incentivize teacher preparation programs having teaching candidates become teachers in schools where students are likely to have higher test scores. On the other hand, they argued that the proposed regulations would also assess program performance using, as one indicator, placement of candidates in high-need schools, an indicator that commenters stated would work in the opposite direction. These commenters argued that this could cause confusion and will create challenges in implementing the regulations by not giving States and programs a clear sense of which issue is of greater importance—student learning outcomes or placement of teachers in high-need schools.

Other commenters recommended that the Department set specific thresholds based on the affluence of the area the school serves. For example, commenters recommended that 85 percent of program graduates who work in affluent, high-performing schools should have a certain level of student learning outcomes, but that, to have the same level of program performance, only 60 percent of program graduates

who work in high-need schools have perform at that same level.

Multiple commenters also opposed the inclusion of student learning outcomes, employment outcomes, and survey outcomes as indicators of the performance of teacher preparation programs. These commenters believed that student learning outcomes are embedded in the concept of VAM found in standardized testing, a concept they believe constitutes a flawed methodology that does not accurately represent teacher preparation program effectiveness.

Discussion: The final regulations require meaningful differentiation of teacher preparation programs on the basis of criteria that include employment in high-need schools as an indicator of program graduates' (or in the case of alternative route programs, participants') academic content knowledge and teaching skills for several reasons. First, like much of the education community, we recognize that the Nation needs more teachers who are better prepared to teach in high-need schools. We strongly believe that teacher preparation programs should accept a share of the responsibility for meeting this challenge. Second, data collected in response to this indicator should actually help distinguish the distinct missions of teacher preparation programs. For example, certain schools have historically focused their programs on recruiting and preparing teachers to teach in high-need schools—a contribution States and those institutions may understandably want to recognize. Third, we know that some indicators may be influenced by graduates' (or in the case of alternative route programs, participants') placement in high-need schools (e.g., teacher retention rates tend to be lower in high-need schools), and States may also want to consider this factor as they determine how to use the various criteria and indicators of academic content knowledge and teaching skills to identify an overall level of program performance.

However, while States retain the authority to determine thresholds for performance under each indicator, in consultation with their stakeholder groups (see § 612.4(c)), we encourage States to choose thresholds purposefully. We believe that all students, regardless of their race, ethnicity, or socioeconomic status, are capable of performing at high levels, and that all teacher preparation programs need to work to ensure that teachers in all schools are capable of helping them do so. We encourage

States to carefully consider whether differential performance standards for teachers in high-need schools reflect sufficiently ambitious targets to ensure that all children have access to a high quality education.

Similarly, we encourage States to employ measures of student learning outcomes that are nuanced enough to control for prior student achievement and observable socio-economic factors so that a teacher's contribution to student learning is not affected by the affluence of his or her school. Overall, the concerns stated here would also be mitigated by use of growth, rather than some indicator of absolute performance, in the measure of student learning outcomes. But, here again, we feel strongly that decisions about how and when student learning outcomes are weighted differently should be left to each State and its consultation with stakeholders.

We respond to the commenters' objections to our requirement that States use student learning outcomes, employment outcomes, and survey outcomes in their assessment of the performance levels of their teacher preparation programs in our discussion of comment on these subjects in § 612.5(a). For reasons we addressed above in the discussion of § 612.1, while still strongly encouraging States to give significant weight to these indicators in assessing a program's performance, we have omitted from the final regulations any requirement that States consider employment outcomes in high-need schools and student outcomes "in significant part."

Changes: We have revised § 612.4(b)(1) by removing the phrase "including, in significant part, employment outcomes for high-need schools and student learning outcomes."

Comments: Commenters recommended that States and their stakeholders have the authority to determine how and to what extent outcomes are included in accountability decisions for teacher preparation programs in order to mitigate the concerns regarding the validity and reliability of the student growth indicators. These commenters stated that we should give more authority to States and LEAs to identify indicators and their relative weighting that would be the greatest benefit to their community. Other commenters also stated that the proposal to require States to provide meaningful differentiations in teacher preparation programs may conflict with existing State structures of accountability, and by giving States increased flexibility, the Department

would avoid inconsistencies with State-determined levels of quality.

Discussion: Having withdrawn our proposal to require that student growth and employment outcomes in high-need schools be considered "in significant part," the final regulations provide States with broad flexibility in how they weight different indicators of academic content knowledge and teaching skills in evaluating teacher preparation programs. While we strongly encourage States to give significant weight to these important indicators of a teacher preparation program's performance, we provide each State full authority to determine, in consultation with its stakeholders, how each of their criteria, including the required indicators of academic content knowledge and teaching skills, can be best used to fit the individual needs of its schools, teachers, and teacher preparation programs.

Changes: None.

Satisfactory or Higher Student Learning Outcomes for Programs Identified as Effective or Higher (34 CFR 612.4(b)(2))

Comments: Multiple commenters asked us to define the phrase "satisfactory or higher student learning outcomes," asking specifically what requirements a program would have to meet to be rated as effective or higher. They also stated that States had insufficient guidance on how to define programs as "effective." Some commenters also noted that providing flexibility to States to determine when a program's student learning outcomes are satisfactory would diminish the ability to compare teacher preparation programs, and opposed giving States the flexibility to determine for themselves when a program has "satisfactory" student learning outcomes. However, other commenters disagreed, stating that States should have flexibility to determine when the teachers trained by a particular teacher preparation program have students who have achieved satisfactory student learning outcomes since States would have a better ability to know how individual teacher preparation programs have helped to meet these States' needs.

Other commenters recommended modifying the regulations so that States would need to determine programs to have "above average student learning outcomes" in order to rate them in the highest category of teacher preparation performance. Another commenter suggested that student learning data be disaggregated by student groups to show hidden inequities, and that States be required to develop a pilot program to use subgroup data in their measurement

of teacher preparation programs, such that if the student subgroup performance falls short the program could not be rated as effective or higher.

Discussion: The Department continues to believe that a teacher preparation program should not be rated effective if the learning outcomes of the students taught by its graduates (or, in the case of alternative route programs, its participants) are not satisfactory. And we appreciate the comments from those who supported our proposal. Nonetheless, we are persuaded by the comments from those who urged that States should have the flexibility to determine how to apply the criteria and indicators of student academic achievement and learning needs to determine the performance level of each program, and have removed this provision from the regulations.

Changes: We have removed § 612.4(b)(2). In addition, we have renumbered § 612.4(b)(3) through (b)(5) as § 612.4(b)(2) through (b)(4).

Data for Each Indicator (34 CFR 612.4(b)(2)(i))

Comments: One commenter requested confirmation that the commenter's State would not be required to report the disaggregated data on student growth based on assessment test scores for individual teachers, teacher preparation programs, or entities on the SRC because the educator effectiveness measure approved for its ESEA flexibility waiver meets the requirements for student learning outcomes in proposed §§ 612.4(b) and 612.5(a)(1) for both tested and non-tested subjects. The commenter stated that it would be cost prohibitive to submit student growth information on the SRC separately from reporting on its educator effectiveness measure under ESEA flexibility. Furthermore, some commenters were concerned that a State's student privacy laws would make it difficult to access the disaggregated data as required.

In addition, some commenters opposed our proposed § 612.4(b)(2)(i)(B) requiring each State to include in its SRC an assurance that a teacher preparation program either is accredited or produces teachers with content and pedagogical knowledge because of what they described as the federalization of professional standards. They indicated that our proposal to offer each State the option of presenting an assurance that the program is accredited by a specialized accrediting agency would, at best, make the specialized accreditor an agent of the Federal government, and at worst, effectively mandate specialized accreditation by CAEP. The commenters

argued instead that professional accreditation should remain a voluntary, independent process based on evolving standards of the profession. Commenters also noted that no definition of specialized accreditation was proposed and requested that we include a definition of this term. One commenter recommended that a definition of specialized accreditation include the criteria that would be used by the Secretary to recognize an agency for the accreditation of professional teacher preparation programs, and that one of the criteria for a specialized agency should be the inclusion of alternative certification programs as eligible professional teacher preparation programs.

Discussion: Under § 612.4(b)(2)(i), States may choose to report student learning outcomes using a teacher evaluation measure that meets the definition in § 612.2. But if they do so, States still must report student learning outcomes for each teacher preparation program in the SRC.

We believe that the costs of this SRC reporting will be manageable for all States, and have provided a detailed discussion of costs in the RIA section of this document. For further discussion of reporting on student learning outcomes, see the discussion in this document of § 612.5(a)(1). We also emphasize that States will report these data in the aggregate at the teacher preparation program level and not at the teacher level. Furthermore, while States will need to comply with applicable Federal and State student privacy laws in the data they report in their SRC, the commenters have not provided information to help us understand how our requirements, except as we discuss for § 612.4(b)(3)(ii)(E), are affected by State student privacy laws.

In addition, as we reviewed these comments and the proposed regulatory language, we realized the word “disaggregated” was unclear with regard to the factors by which the data should be disaggregated, and redundant with regard to the description of indicators in § 612.5. We have therefore removed this word from § 612.4(b)(2)(i).

Under § 612.5(a)(4) States must annually report whether each program is administered by an entity that is accredited by a specialized accrediting agency recognized by the Secretary, or produces candidates (1) with content and pedagogical knowledge and quality clinical preparation, and (2) who have met rigorous teacher candidate exit qualifications. Upon review of the comments and the language of § 612.5(a)(4), we have determined that proposed § 612.4(b)(3)(i)(B), which

would have had States provide an assurance in their SRCs that each program met the characteristics described in § 612.5(a)(4), is not needed. We address the substantive comments offered on that provision in our discussion of comments on § 612.5(a)(4).

Finally, in reviewing the public comment, we realized that the proposed regulations focused only on having States report in their SRCs the data they would provide for indicators of academic knowledge and teaching skills that are used to determine the performance level of each teacher preparation program. This, of course, was because State use of those indicators was the focus of the proposed regulations. But we did not mean to suggest that in their SRCs, States would not also report the data they would use for other indicators and criteria they establish for identifying each’s program’s level of performance. While the instructions in section V of the proposed SRCs imply that States are to report their data for all indicators and criteria they use, we have revised those instructions to clarify this point.

Changes: We have revised § 612.4(b)(2)(i) by removing the word “disaggregated.” We also have removed proposed § 612.4(b)(2)(i)(B) from the regulations.

Weighting of Indicators (34 CFR 612.4(b)(2)(ii))

Comments: Some commenters stated that a formulaic approach, which they argued was implied by the requirement to establish the weights of each indicator, will not yield meaningful differentiations among programs. The commenters recommended that States be allowed to use a multiple-measures system for assessing the performance of teacher preparation programs that relies on robust evidence, includes outcomes, and gives weight to professional judgment. In addition, some commenters recommended that stakeholders provide input as to how and to what extent outcomes are included in a teacher preparation program’s overall performance rating.

Several commenters noted that the flexibility our proposed regulations provide to States to determine the weighting system for use of criteria and indicators to assess teacher preparation program performance undermines what the commenters state is the Department’s goal of providing meaningful data to, among other things, facilitate State-to-State comparisons. The commenters argue that consumers might incorrectly assume the all States are applying the same metrics to assess program performance, and so draw

incorrect conclusions especially for programs located near each other but located in different States. Several commenters also expressed concerns about the Department’s proposal in § 612.5(a)(2) that States be able to weigh employment outcomes differently for alternative route programs and traditional teacher preparation programs. The commenters argued that all teacher preparation programs should be held to the same standards and levels of accountability.

Commenters also stated that our proposal, by which we understand the commenters to mean the proposed use of student learning outcomes, employment outcomes and survey outcomes as indicators of academic content knowledge and teaching skills of teachers whom programs prepare, should be adjusted based on the duration of the teachers’ experience. Commenters stated we should do so because information about newer teachers’ training programs should be emphasized over information about more experienced teachers, for whom data reflecting these indicators would likely be less useful.

Some commenters asked whether, if a VAM is used to generate information for indicators of student learning outcomes, the indicators should be weighted to count gains made by the lower performing third of the student population more than gains made by the upper third of the population because it would be harder to increase the former students’ scores. The commenters noted that poorer performing students will have the ability to improve by greater amounts than those who score higher on tests.

Several commenters believed that the weighting of the indicators used to report on teacher preparation program performance is a critical decision, particularly with respect to the weighting of indicators specific to high-need schools, and because of this, decisions on weighting should be determined after data are collected and analyzed. As an example of why the group of stakeholders should have information available prior to making weighting decisions, the commenter noted that, if teacher placement in high-need schools has a relatively low-weight and student growth is negatively associated with the percentage of economically disadvantaged students enrolled in the school, programs may game the system by choosing to counsel students to seek employment in non-high-need schools.

Finally, several commenters stated that the regulations incentivize programs to place graduates in better

performing schools, noting that the proposed regulations appeared to require that student learning outcomes be given the most weight. On the other hand, the commenters stated that the proposed regulations incentivize the placement of graduates in high-need schools, and argued that employment rates in high-need schools would receive the next highest weight. They argued that this contradiction would lead to confusion and challenges in implementing the regulations.

Discussion: We have included a summary of these comments here because they generally address how States should weight the indicators and criteria used to assess the performance of teacher preparation programs, and advantages and disadvantages of giving weight to certain indicators. However, we stress that we did not intend for States to adopt any particular system of weighting to generate an overall level of performance for each teacher preparation program from the various indicators and criteria they would use. Rather, proposed § 612.4(b)(3)(ii), like § 612.4(b)(2)(ii) of the final regulations, simply directs States to report in their SRCs the weighting it has given to the various indicators in § 612.5). Thus, we are not requiring any State to adopt some form of formulaic approach. And States may, if they choose, build into their indicators and criteria a reliance on robust evidence and outcomes, and give weight to professional judgment.

States plainly need to be able to implement procedures for taking the data relevant to each of the indicators of academic knowledge and teaching skills and other criteria they use to assess program performance, and turn those data into a reported overall level of program performance. We do not see how States can do this without somehow providing some form of weight to each of the indicators they use. However, the specific method by which a State does so is left to each State, in consultation with its stakeholders (see § 612.4(c)), to determine.

As we addressed in the discussion of § 612.1, we had proposed in § 612.4(b)(1) that a State's assessment of a program's performance needed to be based "in significant part" on the results for two indicators, student learning outcomes and employment outcomes in high-need schools. But as we noted in our discussion of comment on §§ 612.1 and 612.4(b)(1), while strongly encouraging States to adopt these provisions in their procedures for assessing a program's performance, we have revised these final regulations to omit that proposal and any other

language that any regulatory indicator receive special weight.

Furthermore, the flexibility the regulations accord to States to determine how these factors should be weighed to determine a program's level of performance extends to the relative weight a State might accord to factors like a teacher's experience and to student learning outcomes of teachers in low-performing versus high-performing schools. It also extends to the weight a State would provide to employment outcomes for traditional teacher preparation programs and alternative route teacher preparation programs; after all, these types of programs are very different in their concept, who they recruit, and when they work with LEAs to place aspiring teachers as teachers of record. In addition, State flexibility extends to a State's ability to assess the overall performance of each teacher preparation program using other indicators of academic content knowledge and teaching skills beyond those contained in the regulations. We do not believe that this flexibility undermines any Departmental goal, or goal that Congress had in enacting the title II reporting system.

Thus, while a State must report the procedures and weighting of indicators of academic content knowledge and teaching skills and other criteria it uses to assess program performance in its SRC, we believe States should be able to exercise flexibility to determine how they will identify programs that are low-performing or at-risk of being so. In establishing these regulations, we stress that our goal is simple: to ensure that the public—prospective teaching candidates, LEAs that will employ novice teachers, and State and national policy makers alike—has confidence that States are reasonably identifying programs that are and are not working, and understand how States are distinguishing between the two. The flexibilities the regulations accord to States to determine how to determine a program's level of performance is fully consistent with this goal. Furthermore, given the variation we expect to find in State approaches and the different environments in which each State operates, we reiterate that any State-to-State comparisons will need to be made only with utmost caution.

As noted above, our discussion of §§ 612.1 and 612.4(b)(1) stressed both (1) our hope that States would adopt our proposals that student learning outcomes and employment outcomes for high-need schools be given significant weight, and that to be considered effective a teacher preparation program would show positive student learning

outcomes, and (2) our decision not to establish these proposals as State requirements. Thus, we likewise leave to States issues regarding incentives that any given weight might cause to placements of aspiring teachers and the programs themselves.

Finally, in reviewing the public comment, we realized that the proposed regulations focused only on having States report in their SRCs the weights they would provide to indicators of academic knowledge and teaching skills used to determine the performance level of each teacher preparation program. This, of course, was because State use of those indicators was the focus of the proposed regulations. But we did not mean to suggest that in their SRCs, States would not also report the weights they would provide to other indicators and criteria they establish for identifying each program's level of performance. While the instructions in section V of the proposed SRCs imply that States are to report their weighting for all indicators and criteria they use, we have revised them to clarify this point.

Changes: None.

Reporting the Performance of All Teacher Preparation Programs (34 CFR 612.4(b)(3))

Comments: Commenters stated that a number of non-traditional teacher preparation program providers will never meet the criteria for inclusion in annual reports due to their small numbers of students. Commenters noted that this implies that many of the most exemplary programs will neither be recognized nor rewarded and may even be harmed by their omission in reports provided to the media and public. Commenters expressed concern that this might lead prospective students and parents to exclude them as viable options, resulting in decreased program enrollment.

Other commenters asked for more clarity on the various methods for a program to reach the threshold of 25 new teachers (or other threshold set by the State). The commenters also stated that a State could design this threshold to limit the impact on programs. Other commenters noted that smaller teacher preparation programs may not have the technical and human resources to collect the data for proposed reporting requirements, *i.e.*, tracking employment and impact on student learning, and asked if the goal of these proposed regulations is to encourage small programs to close or merge with larger ones.

Discussion: The regulations establish minimum requirements for States to use

in assessing and reporting the performance of each teacher preparation program, and are not intended to facilitate the merger or closure of small programs. The proposed regulations provided States with three methods of identifying and reporting the performance of teacher preparation programs that produce fewer than 25 new teachers—or such lower number as the State might choose—in a given reporting year by aggregating data to reach the minimum thresholds. Under the final regulations, States could: (1) Combine a teacher preparation program's performance data with data for other teacher preparation programs that are operated by the same teacher preparation entity and are similar to or broader than the program in content; (2) combine data over multiple years for up to four years until the size threshold is met; or (3) use a combination of the two methods. Given statistical and privacy issues that are particular to small programs, we believe that these aggregation methods will adequately address the desire to have the performance of all programs, large and small, reported in SRCs. In addition, while we strongly believe that all teacher preparation programs should want to gather student learning outcomes and results of employment and survey results to help them to improve their programs, States, not institutions, ultimately have the responsibility to report under § 612.4.

The proposed regulations had focused State reporting and small program aggregation procedures on the number of new teachers a teacher preparation program produced. Based on further consideration of these and other comments, it became clear that the term “new teacher” was problematic in this case as it was in other places. We realized that this approach would not hold teacher preparation programs accountable for producing recent graduates who do not become novice teachers. Because we believe that the fundamental purpose of these programs is to produce novice teachers, we have concluded that our proposal to have State reporting of a program's performance depend on the number of new teachers that the program produces was misplaced.

Therefore, in order to better account for individuals who complete a teacher preparation program but who do not become novice teachers, we are requiring a State to report annually on the performance of each “brick-and-mortar” teacher preparation program that produces a total of 25 or more recent graduates (or such lower threshold as the State may establish).

Similarly, aggregation procedures for smaller programs apply to each teacher preparation program that produces fewer than 25 recent graduates (or such lower threshold as the State may establish). For teacher preparation programs provided through distance education, the requirement is the same except that, since States are not likely to know the number of recent graduates, States will continue to look at whether the program has that same threshold number of 25 recent graduates, but in this case, to be counted, these recent graduates need to have received an initial certification or licensure from the State that allows them to serve in the State as teachers of record for K–12 students.

Changes: We have revised § 612.4(b)(3) to provide that a State's annual reporting of a teacher preparation program's performance, and whether it provides this reporting alternatively through small program aggregation procedures, depends on whether the program produces a total of 25 or more recent graduates (or such lower threshold as the State may establish). For programs provided through distance education, the number of recent graduates counted will be those who have received an initial certification or licensure from the State that allows them to serve in the State as teachers of record for K–12 students.

Annual Performance Reporting of Teacher Preparation Programs (612.4(b)(3)(i))

Comments: Two commenters stated that differentiated reporting for large and small teacher preparation programs, coupled with allowing States to establish what the commenters referred to as “certain criteria,” will lead to invalid comparisons and rankings both within and among States.

Discussion: The regulations require separate reporting of the performance of any teacher preparation program that annually produces 25 or more recent graduates. For programs that annually produce fewer recent graduates, the regulations also establish procedures for data aggregation that result in reporting on all of the State's teacher preparation programs (except for those programs that are particularly small and for which aggregation procedures cannot be applied, or where the aggregation would be in conflict with State or Federal privacy or confidentiality laws). Based on concerns expressed during the negotiated rulemaking sessions, the Department believes that use of an “n-size” of 25 (or such smaller number that a State may adopt) and the means of reporting the performance of smaller

programs through the aggregation procedures address privacy and reliability concerns while promoting the goal of having States report on the performance of as many programs as possible. Moreover, we reiterate that the purpose of these regulations is to identify key indicators that States will use to assess the level of performance for each program, and provide transparency about how it identifies that level. We are not proposing any rankings and continue to caution against making comparisons of programs based on data States report.

Changes: None.

Performance Reporting of Small Teacher Preparation Programs: General (34 CFR 612.4(b)(3)(ii))

Comments: Commenters stated that the low population in some States makes privacy of students in elementary and secondary schools, and in teacher preparation programs, difficult or impossible to assure. The commenters further stated that aggregating student growth data to the school level to assure privacy in the title II report would result in meaningless ratings, because the teachers in the schools more than likely completed the preparation program at different institutions.

Several commenters were concerned that our proposals for aggregating data to be used to annually identify and report the level of performance of small teacher preparation programs would make year-by-year comparisons and longitudinal trends difficult to assess in any meaningful way, since it is very likely that States will use different aggregation methods institution-by-institution and year-by-year.

Commenters noted that many small rural teacher preparation programs and programs producing small numbers of teachers who disperse across the country after program completion do not have the requisite threshold size of 25. Commenters stated that for these programs, States may be unable to collect sufficient valid data. The result will be misinformed high-stakes decision making.

Some commenters proposed that States be able to report a minimum of 10 new teachers with aggregation when a minimum is not met instead of 25. Other options would be to report what data they have or aggregate previous years to meet “n” size.

One commenter recommended that rankings be initially based on a relatively few, normed criteria common to, and appropriate for, all sized programs and States, *i.e.*, a common baseline ranking system. The commenter stated that to do otherwise

could result in States rushing to the lowest (not highest) common denominator to protect both quality programs from being unfairly ranked in comparison with weaker programs in other States, and small premier programs from unfair comparisons with mediocre larger programs.

Two commenters stated that even though the proposed rules create several ways in which States may report the performance of teacher preparation programs that annually produce fewer than 25 teachers per year, the feasibility of annual reporting at the program level in some States would be so limited it would not be meaningful. The commenters added that regardless of the aggregation strategy, having a minimum threshold of 25 will protect the confidentiality of completers for reporting, but requiring annual reporting of programs that produce 25 or more recent graduates per year will omit a significant number of individual programs from the SRC. Several commenters had similar concerns and stated that annual reporting of the teacher preparation program performance would not be feasible for the majority of teacher preparation programs across the country due to their size or where the student lives. Commenters specifically mentioned that many programs at Historically Black Colleges and Universities will have small cell sizes for graduates, which will make statistical conclusions difficult. Another commenter had concerns with the manner in which particular individual personnel data will be protected from public disclosure, while commenters supported procedural improvements in the proposed regulations discussed in the negotiated rulemaking sessions that addressed student privacy concerns by increasing the reporting threshold from 10 to 25.

Commenters further expressed concerns that for some States, where the number of teachers a program produces per year is less than 25, the manual calculation that States would need to perform to combine programs to aggregate the number of students up to 25 so that the States would then report the assessment of program performance and information on indicators would not only be excessive, but may lead to significant inconsistencies across entities and from one year to the next.

Discussion: We first reiterate that we have revised § 612.5(a)(1)(ii) so that States do not need to use student growth, either by itself or as used in a teacher evaluation measure, for student learning outcomes when assessing a teacher preparation program's level of

performance. While we encourage them to do so, if, for reasons the commenters provided or other reasons, they do not want to do so, States may instead use "another State-determined measure relevant to calculating student learning outcomes."

We do not share commenters' concerns about small elementary and secondary schools where privacy concerns purportedly require a school-level calculation of student growth measures rather than calculation of student growth at the teacher level, or related concerns about student learning outcomes for an individual teacher not yielding useable information about a particular teacher preparation program. Student learning outcomes applicable to a particular teacher preparation program would not be aggregated at the school level. Whether measured using student growth, a teacher evaluation measure, or another State-determined measure relevant to calculating student learning outcomes, each teacher—whether employed in a large school or a small school—has some impact on student learning. Under our regulations, these impacts would be aggregated across all schools (or at least all public schools in the State in which the program is located) that employ novice teachers the program had prepared.

For small teacher preparation programs, we believe that a State's use of the aggregation methods reasonably balances the need for annual reporting on teacher preparation program performance with the special challenges of generating a meaningful annual snapshot of program quality for programs that annually produce few teachers. By permitting aggregation to the threshold level of similar or broader programs run by the same teacher preparation entity (paragraph (b)(3)(ii)(A)) or over a period of up to four years (ii)(B)), or both (ii)(C)), we are offering States options for meeting their annual reporting responsibilities for all programs. However, if aggregation under any of the methods identified in § 612.4(b)(3)(ii)(A)–(C) would still not yield the requisite program size threshold of 25 recent graduates or such lower number that a State establishes, or if reporting such data would be inconsistent with Federal or State privacy and confidentiality laws and regulations, § 612.4(b)(3)(ii)(D) and § 612.4(b)(5) provide that the State would not need to report data on, or identify an overall performance rating for, that program.

Our regulations give States flexibility to determine, with their consultative groups, their own ways of determining a teacher preparation program's

performance. But if a State were to use the "lowest common denominator" in evaluating programs, as the commenter suggested, it would not be meeting the requirement in § 612.4(b)(1) to identify meaningful differentiation between programs. We continue to caution against making comparisons of the performance of each teacher preparation program, or the data for each indicator and criterion a State uses to determine the overall level of performance, that States report in their SRCs. Each teacher preparation program is different; each has a different mission and draws different groups of aspiring teachers. The purpose of this reporting is to permit the public to understand which programs a State determines to be low-performing or at-risk of being low-performing, and the reasons for this determination. The regulations do not create a national ranking system for comparing the performance of programs across States. For these reasons, we do not believe that the regulations provide perverse incentives for States to lower their standards relative to other States.

While we appreciate the commenter's recommendation that States be required to use a set of normed criteria common across all sized programs and all States, section 205(b) of the HEA requires each State to include in its SRC its criteria for assessing program performance, including indicators of academic content knowledge and teaching skills. Therefore, subject only to use of the indicators of academic content knowledge and teaching skills defined in these regulations, the law provides that each State determine how to assess a program's performance and, in doing so, how to weight different criteria and indicators that bear on the overall assessment of a program's performance.

We appreciate the commenters' statements about potential challenges and limitations that the regulations' aggregation procedures pose for small teacher preparation programs. However, while we agree that a State's use of these procedures for small programs may produce results that are less meaningful than those for programs that annually produce 25 or more recent graduates (or such lower threshold as the State establishes), we believe that they do provide information that is far more meaningful than the omission of information about performance of these small programs altogether. We also appreciate commenters' concerns that for some States, the process of aggregating program data could entail significant effort. But we assume that data for indicators of this and other programs of the same teacher preparation entities would be procured

electronically, and, therefore, do not believe that aggregation of data would necessarily need to be performed manually or that the effort involved would be “excessive”. Moreover, the commenters do not explain why use of the aggregation methods to identify programs that are low-performing or at-risk of being low-performing should lead to significant inconsistencies across entities and from one year to the next, nor do we agree this will be the case.

Like the commenter, we are concerned about protection of individual personnel data from public disclosure. But we do not see how the procedures for aggregating data on small programs, such that what the State reports concerns a combined program that meets the size threshold of 25 (or such lower size threshold as the State establishes) creates legitimate concerns about such disclosure. And as our proposed regulations did not contain a size threshold of 10, we do not believe we need to make edits to address the specific commenters’ concerns regarding our threshold number.

Changes: None.

Aggregating Data for Teacher Preparation Programs Operated by the Same Entity (34 CFR 612.4(b)(3)(ii)(A))

Comments: One commenter expressed concerns for how our proposed definition of a teacher preparation program meshed with how States would report data for and make an overall assessment of the performance of small teacher preparation programs. The commenter noted that the proposed regulations define a teacher preparation program as a program that is “offered by a teacher preparation entity that leads to a specific State teacher certification or licensure in a specific field.” It therefore appears that a program that is a “secondary mathematics program” would instead be a “secondary program.” Based on the proposed regulatory language about aggregation of performance data among teacher preparation programs that are operated by the same teacher preparation entity and are similar to or broader than the program (§ 612.4(b)(3)(ii)(A)), the commenter added that it appears that a State can collapse secondary content areas (e.g., biology, physics) and call it a “secondary program.”

Discussion: As explained in our discussion of the prior comments, we feel that meeting the program size threshold of 25 novice teachers (or any lower threshold a State establishes) by aggregating performance data for each of these smaller programs with performance data of similar or broader programs that the teacher preparation

entity operates (thus, in effect, reporting on a broader-based set of teacher preparation programs) is an acceptable and reasonable way for a State to report on the performance of these programs. Depending on program size, reporting could also be even broader, potentially having reporting for the entire teacher preparation entity. Indicators of teacher preparation performance would then be outcomes for all graduates of the combined set of programs, regardless of what subjects they teach. A State’s use of these aggregation methods balances the need to annually report on program performance with the special challenges of generating a meaningful annual snapshot of program quality for programs that annually produce few novice teachers. We understand the commenter’s concern that these aggregation measures do not precisely align with the definition of teacher preparation program and permit, to use the commenter’s example, a program that is a “secondary mathematics program” to potentially have its performance reported as a broader “secondary program.” But as we noted in our response to prior comments, if a State does not choose to establish a lower size threshold that would permit reporting of the secondary mathematics program, aggregating performance data for that program with another similar program still provides benefits that far exceed having the State report no program performance information at all.

TEACH Grant eligibility would not be impacted because either the State will determine and report the program’s performance by aggregating relevant data on that program with data for other teacher preparation programs that are operated by the same teacher preparation entity and are similar to or broader than the program in content, or the program will meet the exceptions provided in § 612.4(b)(3)(ii)(D) and § 612.4(b)(5).

Changes: None.

Aggregating Data in Performance Reporting (34 CFR 612.4(b)(3)(ii)(B))

Comments: Several commenters stated that aggregating data for any given teacher preparation program over four years to meet the program size threshold would result in a significant lack of reliability; some urged the Department to cap the number of years allowed for aggregating data at three years. Another commenter raised concerns about reported data on any given program being affected by program characteristics that are prone to change significantly in the span of four years (i.e., faculty turnover and changes in clinical practice, curriculum, and

assessments). The commenter noted that many States’ programs will not meet the criterion of setting the minimum number of program completers, which the commenter stated our proposed regulations set at ten. The commenter asked the Department to consider a number of aggregation methods to reach a higher completer count.

Discussion: The proposed regulations did not establish, as a threshold for reporting performance data and the program’s level of performance, a minimum of ten program completers. Rather, where a teacher preparation program does not annually produce 25 or more recent graduates (or such lower threshold as the State may establish), proposed § 612.4(b)(3)(ii)(B) would permit a State to aggregate its performance data in any year with performance data for the same program generated over a period of up to four years. We appreciate that aggregating data on a program’s new teachers over a period of up to four years is not ideal; as commenters note, program characteristics may change significantly in the span of four years.

However, given the challenges of having States report on the performance of small programs, we believe that providing States this option, as well as options for aggregating data on the program with similar or broader programs of the same teacher preparation entity (§§ 612.4(b)(3)(ii)(A) and (C)), allows the State to make a reasonable determination of the program’s level of performance. This is particularly so given that the regulations require that the State identify only whether a given teacher preparation program is low-performing or at-risk of being low-performing. We note that States have the option to aggregate across programs within an entity, if in consultation with stakeholders, they find that produces a more accurate representation of program quality. See § 612.4(b)(3)(ii)(A)). We believe that a State’s use of these alternative methods would produce more reliable and valid measures of quality for each of these smaller programs and reasonably balance the need annually to report on program performance with the special challenges of generating a meaningful annual snapshot of program quality for programs that annually produce few novice teachers.

The commenters who recommended reducing the maximum time for aggregating data on the same small program from four years to three did not explain why the option of having an additional year to report on very small programs was preferable to omitting a report on program performance

altogether if the program was still below the size threshold after three years. We do not believe that it is preferable.

Moreover, if a State does not want to aggregate performance data for the same small program over a full four years, the regulations permit it instead to combine performance data with data for other programs operated by the same entity that are similar or broader.

Changes: None.

Aggregating Data in Performance Reporting of Small Teacher Preparation Programs (34 CFR 612.4(b)(3)(ii)(C))

Comments: Commenters noted that while the proposed rule asserts that States may use their discretion on how to report on the performance of teacher preparation programs that do not meet the threshold of 25 novice teachers (or any lower threshold the State establishes), the State may still be reporting on less than half of its programs. Commenters note that if this occurs, the Department's approach will not serve the purpose of increased accountability of all programs. Another commenter stated that human judgment would have to be used to aggregate data across programs or across years in order to meet the reporting threshold, and this would introduce error in the level of performance the State assigns to the program in what the commenter characterizes as a high-stakes accountability system.

Another commenter appears to understand that the government wants to review larger data fields for analysis and reporting, but stated that the assumption that data from a program with a smaller "n" size is not report worthy may dampen innovation and learning from a sponsoring organization with a stated goal of producing a limited number of teachers or is in a locale needing a limited number of teachers. The commenter noted that, if a State were to combine programs, report years, or some other combination to get to 25, the Federally stated goal of collecting information about each program, rather than the overall sponsoring organization, is gone. The commenter argued that § 612.4(c), which the commenter states requires that States report on teacher preparation at the individual program level, appears to contradict the over 25 completer rule for reporting.

Discussion: We expect that, working with their consultative group (see § 612.4(c)), States will adopt reasonable criteria for deciding which procedure to use in aggregating performance data for programs that do not meet the minimum threshold. We also expect that a key factor in the State's judgment of how to

proceed will be how best to minimize error and confusion in reporting data for indicators of academic content knowledge and teaching skills and other criteria the State uses, and the program's overall level of performance. States will want to produce the most reliable and valid measures of quality for each of these smaller programs. Finally, while the commenter is correct that § 612.4(c) requires States to work with a consultative group on procedures for assessing and reporting the performance of each teacher preparation program in the State, how the State does so for small programs is governed by § 612.4(b)(3)(ii).

Changes: None.

No Required State Reporting on Small Teacher Preparation Programs That Cannot Meet Reporting Options (34 CFR 612.4(b)(4)(ii)(D))

Comments: Some commenters urged the Department not to exempt from State title II reporting those teacher preparation programs that are so small they are unable to meet the proposed threshold size requirements even with the options for small programs we had proposed.

Discussion: If a teacher preparation program produces so few recent graduates that the State cannot use any of the aggregation methods to enable reporting of program performance within a four-year period, we do not believe that use of the regulations' indicators of academic content knowledge and teaching skills to assess its performance will produce meaningful results.

Changes: None.

No Required State Reporting Where Inconsistent With Federal and State Privacy and Confidentiality Laws (34 CFR 612.4(b)(3)(ii)(E))

Comments: Two commenters objected to the proposed regulations because of concerns that the teacher evaluation data and individual student data that would be collected and reported would potentially violate State statutes protecting or sharing elementary and secondary student performance data and teacher evaluation results with any outside entity. One commenter expressed general concern about whether this kind of reporting would violate the privacy rights of teachers, particularly those who are working in their initial years of teaching.

Another commenter recommended that the proposed regulations include what the commenter characterized as the exemption in the Family Educational Rights and Privacy Act (FERPA) (34 CFR 99.31 or 99.35) that

allows for the re-disclosure of student-level data for the purposes of teacher preparation program accountability. The commenter stressed that the proposed regulations do not address a restriction in FERPA that prevents teacher preparation programs from being able to access data that the States will receive on program performance. The commenter voiced concern that as a result of this restriction in FERPA, IHEs will be unable to perform the analyses to determine which components of their teacher preparation programs are leading to improvements in student academic growth and which are not, and urged that we include an exemption in 34 CFR 99.31 or 99.35 to permit the re-disclosure of student-level data to IHEs for the purposes of promoting teacher preparation program accountability. From a program improvement standpoint, the commenter argues that aggregated data are meaningless; teacher preparation programs need fine-grained, person-specific data (data at the lowest level possible) that can be linked to student information housed within the program.

Yet another commenter stated that surveying students (by which we interpret the comment to mean surveying elementary or secondary school students) or parents raises general issues involving FERPA.

Discussion: The Department appreciates the concerns raised about the privacy of information on students and teachers. Proposed § 612.4(b)(4)(ii)(E) provided that a State is not required to report data on a particular teacher preparation program that does not meet the size thresholds under § 612.4(b)(4)(ii)(A)–(C) if reporting these data would be inconsistent with Federal or State privacy and confidentiality laws and regulations. We had proposed to limit this provision to these small programs because we did (and do) not believe that, for larger programs, Federal or State laws would prohibit States or State agencies from receiving the information they need under our indicators of academic content knowledge and teaching skills to identify a program's level of performance. The commenters did not provide the text of any specific State law to make us think otherwise, and for reasons we discuss below, we are confident that FERPA does not create such concerns. Still, in an abundance of caution, we have revised this provision to clarify that no reporting of data under § 612.4(b) is needed if such reporting is inconsistent with Federal or State confidentiality laws. We also have redesignated this provision as § 612.4(b)(5) to clarify that

it is not limited to reporting of small teacher preparation programs. States should be aware of any restrictions in reporting because of State privacy laws that affect students or teachers.

At the Federal level, the final regulations do not amend 34 CFR part 99, which are the regulations implementing section 444 of the General Education Provisions Act (GEPA), commonly referred to as FERPA. FERPA is a Federal law that protects the privacy of personally identifiable information in students' education records. See 20 U.S.C. 1232g; 34 CFR part 99. FERPA applies to educational agencies and institutions (elementary and secondary schools, school districts, colleges and universities) that are recipients of Federal funds under a program administered by the Department. FERPA prohibits educational agencies and institutions to which it applies from disclosing personally identifiable information from students' education records, without the prior written consent of the parent or eligible student, unless the disclosure meets an exception to FERPA's general consent requirement. The term "education records" means those records that are: (1) Directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. Education records would encompass student records that LEAs maintain and that States will need in order to have the data needed to apply the regulatory indicators of academic content and teaching skills to individual teacher preparation programs.

As the commenter implicitly noted, one of the exceptions to FERPA's general consent requirement permits the disclosure of personally identifiable information from education records by an educational agency or institution to authorized representatives of a State educational authority (as well as to local educational authorities, the Secretary, the Attorney General of the United States, and the Comptroller General of the United States) as may be necessary in connection with the audit, evaluation, or the enforcement of Federal legal requirements related to Federal or State supported education programs (termed the "audit and evaluation exception"). The term "State and local educational authority" is not specifically defined in FERPA. However, we have previously explained in the preamble to FERPA regulations published in the **Federal Register** on December 2, 2011 (76 FR 75604, 75606), that the term "State and local educational authority" refers to an SEA, a State postsecondary commission,

Bureau of Indian Education, or any other entity that is responsible for and authorized under local, State, or Federal law to supervise, plan, coordinate, advise, audit, or evaluate elementary, secondary, or postsecondary Federal- or State-supported education programs and services in the State. Accordingly, an educational agency or institution, such as an LEA, may disclose personally identifiable information from students' education records to a State educational authority that has the authority to access such information for audit, evaluation, compliance, or enforcement purposes under FERPA.

We understand that all SEAs exercise this authority with regard to data provided by LEAs, and therefore FERPA permits LEAs to provide to SEAs the data the State needs to assess the indicators our regulations require. Whether other State agencies such as those that oversee or help to administer aspects of higher education programs or State teacher certification requirements are also State education authorities, and so may likewise receive such data, depends on State law. The Department would therefore need to consider State law (including valid administrative regulations) and the particular responsibilities of a State agency before providing additional guidance about whether a particular State entity qualifies as a State educational authority under FERPA.

The commenter would have us go further, and amend the FERPA regulations to permit State educational authorities to re-disclose this personally identifiable information from students' education records to IHEs or the programs themselves in order to give them the disaggregated data they need to improve the programs. While we understand the commenter's objective, we do not have the legal authority to do this.

Finally, in response to other comments, FERPA does not extend privacy protections to an LEA's records on teachers. Nor do the final regulations require any reporting of survey results from elementary or secondary school students or their parents. To the extent that either is maintained by LEAs, disclosures would be subject to the same exceptions and limitations under FERPA as records of or related to students.

Changes: We have revised § 612.4(b)(3)(ii)(E) and have redesignated it as § 612.4(b)(5) to clarify that where reporting of data on a particular program would be inconsistent with Federal or State privacy or confidentiality laws or regulations, the exclusion from State

reporting of these data is not limited to small programs subject to § 612.4(b)(3)(ii).

Fair and Equitable Methods: Consultation With Stakeholders (34 CFR 612.4(c)(1))

Comments: We received several comments on the proposed list of stakeholders that each State would be required to include, at a minimum, in the group with which the State must consult when establishing the procedures for assessing and reporting the performance of each teacher preparation program in the State (proposed § 612.4(c)(1)(i)). Some commenters supported the list of stakeholders. One commenter specifically supported the inclusion of representatives of institutions serving minority and low-income students.

Some commenters believed that, as the relevant stakeholders will vary by State, the regulations should not specify any of the stakeholders that each State must include, leaving the determination of necessary stakeholders to each State's discretion.

Some commenters suggested that States be required to include representatives beyond those listed in the proposed rule. In this regard, commenters stated that representatives of small teacher preparation programs are needed to help the State to annually revisit the aggregation of data for programs with fewer novice teachers than the program size threshold, as would be required under proposed § 612.4(b)(4)(ii). Some commenters recommended adding advocates for low-income and underserved elementary and secondary school students. Some commenters also stated that advocates for students of color, including civil rights organizations, should be required members of the group. In addition, commenters believed that the regulations should require the inclusion of a representative of at least one teacher preparation program provided through distance education, as distance education programs will have unique concerns.

One commenter recommended adding individuals with expertise in testing and assessment to the list of stakeholders. This commenter noted, for example, that there are psychologists who have expertise in aspects of psychological testing and assessment across the variety of contexts in which psychological and behavioral tests are administered. The commenter stated that, when possible, experts such as these who are vested stakeholders in education should be consulted in an effort to ensure the procedures for

assessing teacher preparation programs are appropriate and of high quality, and that their involvement would help prevent potential adverse, unintended consequences in these assessments.

Some commenters supported the need for student and parent input into the process of establishing procedures for evaluating program performance but questioned the degree to which elementary and secondary school students and their parents should be expected to provide input on the effectiveness of teacher preparation programs.

One commenter supported including representatives of school boards, but recommended adding the word “local” before “school boards” to clarify that the phrase “school boards” does not simply refer to State boards of education.

Discussion: We believe that all States must consult with the core group of individuals and entities that are most involved with, and affected by, how teachers are prepared to teach. To ensure that this is done, we have specified this core group of individuals and entities in the regulations. We agree with the commenters that States should be required to include in the group of stakeholders with whom a State must consult representatives of small teacher preparation programs (*i.e.*, programs that produce fewer than a program size threshold of 25 novice teachers in a given year or any lower threshold set by a State, as described in § 612.4(b)(3)(ii)). We agree that the participation of representatives of small programs, as is required by § 612.4(c)(ii)(D), is essential because one of the procedures for assessing and reporting the performance of each teacher preparation program that States must develop with stakeholders includes the aggregation of data for small programs (§ 612.4(c)(1)(ii)(B)).

We also agree with commenters that States should be required to include as stakeholders advocates for underserved students, such as low-income students and students of color, who are not specifically advocates for English learners and students with disabilities. Section 612.4(c)(ii)(I) includes these individuals, and they could be, for example, representatives of civil rights organizations. To best meet the needs of each State, and to provide room for States to identify other groups of underserved students, the regulations do not specify what those additional groups of underserved students must be.

We agree with the recommendation to require States to include a representative of at least one teacher preparation program provided through distance education in the group of

stakeholders as we agree teacher preparation programs provided through distance education are different from brick-and-mortar programs, and warrant representation on the stakeholder group. Under the final regulations, except for the teacher placement rates, States collect information on those programs and report their performance on the same basis as brick-and-mortar programs. See the discussion of comment on *Program-Level Reporting (including distance education)* (34 CFR 612.4(a)(1)(i)).

While a State may include individuals with expertise in testing and assessment in the group of stakeholders, we do not require this because States alternatively may either wish to consult with such individuals through other arrangements, or have other means for acquiring information in this area that they need.

Nonetheless, we encourage States to use their discretion to add representatives from other groups to ensure the process for developing their procedures and for assessing and reporting program performance are fair and equitable.

We thank commenters for their support for our inclusion of representatives of “elementary through secondary students and their parents” in the consultative group. We included them because of the importance of having teacher preparation programs focus on their ultimate customers—elementary and secondary school students.

Finally, we agree that the regulation should clarify that the school board representatives whom a State must include in its consultative group of stakeholders are those of local school boards. Similarly, we believe that the regulation should clarify that the superintendents whom a State must include in the group of stakeholders are LEA superintendents.

Changes: We have revised § 612.4(c)(1)(i) to clarify that a State must include representatives of small programs, other groups of underserved students, of local school boards and LEA superintendents and a representative of at least one teacher preparation program provided through distance education in the group with which the State must consult when establishing its procedures.

Comments: Commenters recommended that States should not be required to establish consequences (associated with a program’s identification as low-performing or at-risk of being low-performing), as required under proposed § 612.4(c)(1)(ii)(C), until after the phase-in of the regulations. Commenters stated

that, because errors will be made in the calculation of data and in determining the weights associated with specific indicators, States should be required to calculate, analyze, and publish the data for at least two years before high-stakes consequences are attached. Commenters believed that this would ensure initial unintended consequences are identified and addressed before programs are subject to high-stakes consequences. Commenters also expressed concerns about the ability of States, under the proposed timeline for implementation, to implement appropriate opportunities for programs to challenge the accuracy of their performance data and classification of their program under proposed § 612.4(c)(1)(ii)(D).

Commenters also stated that the proposed requirement that the procedures for assessing and reporting the performance of each teacher preparation program in the State must include State-level rewards and consequences associated with the designated performance levels is inappropriate because the HEA does not require States to develop rewards or consequences associated with the designated performance levels of teacher preparation programs. Commenters also questioned the amount of information that States would have to share with the group of stakeholders establishing the procedures on the fiscal status of the State to determine what the rewards should be for high-performing programs. Commenters noted that rewards are envisioned as financial in nature, but States operate under tight fiscal constraints. Commenters believed that States would not want to find themselves in an environment where rewards could not be distributed yet consequences (*i.e.*, the retracting of monies) would ensue.

In addition, commenters were concerned about the lack of standards in the requirement that States implement a process for programs to challenge the accuracy of their performance data and classification. Commenters noted that many aspects of the rating system carry the potential for inaccurate data to be inputted or for data to be miscalculated. Commenters noted that the proposed regulations do not address how to ensure a robust and transparent appeals process for programs to challenge their classification.

Discussion: We believe the implementation schedule for these final regulations provides sufficient time for States to implement the regulations, including the time necessary to develop the procedures for assessing and reporting the performance of each

teacher preparation program in the State (see the discussion of comments related to the implementation timeline for the regulations in *General (Timeline)* (34 CFR 612.4(a)(1)(i)) and *Reporting of Information on Teacher Preparation Program Performance (Timeline)* (34 CFR 612.4(b)). We note that States can use results from the pilot reporting year, when States are not required to classify program performance, to adjust their procedures. These adjustments could include the weighting of indicators, the procedure for program challenges, and other changes needed to ensure that unintended consequences are identified and addressed before the consequences have high stakes for programs. Additionally, under § 612.4(c)(2), a State has the discretion to determine how frequently it will periodically examine the quality of the data collection and reporting activities it conducts, and States may find it beneficial to examine and make changes to their systems more frequently during the initial implementation stage.

The regulations do not require a State to have State-level rewards or consequences associated with teacher preparation performance levels. To the extent that the State does, § 612.4(b)(2)(iii) requires a State to provide that information in the SRC, and § 612.4(c)(1)(ii)(C) requires the State to include those rewards or consequences in the procedures for assessing and reporting program performance it establishes in consultation with a representative group of stakeholders in accordance with § 612.4(c)(1)(i).

Certainly, whether a State can afford to provide financial rewards is an essential consideration in the development of any State-level rewards. We leave it up to each State to determine, in accordance with any applicable State laws or regulations, the amount of information to be shared in the development of any State-level rewards or consequences.

As a part of establishing appropriate opportunities for teacher preparation programs to challenge the accuracy of their performance data and program classification, States are responsible for determining the related procedures and standards, again in consultation with the required representative group of stakeholders. We expect that these procedures and standards will afford programs meaningful and timely opportunities to appeal the accuracy of their performance data and overall program performance level.

Changes: None.

Fair and Equitable Methods: State Examination of Data Collection and Reporting (34 CFR 612.4(c)(2))

Comments: Commenters asserted that the proposed requirement for a State to periodically examine the quality of its data collection and reporting activities under proposed § 612.4(c)(2) is insufficient. The commenters contended that data collection and reporting activities must be routinely and rigorously examined and analyzed to ensure transparency and accuracy in the data and in the high-stakes results resulting from the use of the data. According to these commenters, State data systems are not at this time equipped to fully implement the regulations, and thus careful scrutiny of the data collection—especially in the early years of the data systems—is vital to ensure that data from multiple sources are accurate, and, if they are not, that modifications are made. Commenters also suggested that there should be a mechanism to adjust measures when schools close or school boundaries change as programs with smaller numbers of graduates concentrated in particular schools could be significantly impacted by these changes that are outside the control of teacher preparation programs.

Discussion: The regulations do not specify how often a State must examine the quality of its data collection and reporting activities and make any appropriate modifications, requiring only that it be done “periodically.” We think that the frequency and extent of this review is best left to each State, in consultation with its representative group of stakeholders. We understand, as indicated by commenters, that many State data systems are not currently ready to fully implement the regulations, and therefore it is likely that such examinations and modifications will need to be made more frequently during the development stage than will be necessary once the systems have been in place and operating for a while. As States have the discretion to determine the frequency of their examinations and modifications, they may establish triggers for examining and, if necessary, modifying their procedures. This could include developing a mechanism to modify the procedures in certain situations, such as where school closures and school boundary changes may inadvertently affect certain teacher preparation programs.

Changes: None.

Section 612.5 What indicators must a State use to report on teacher preparation program performance for purposes of the State report card?

Indicators a State Must Use To Report on Teacher Preparation Programs in the State Report Card (34 CFR 612.5(a))

Comments: Some commenters expressed support for the proposed indicators, believing they may push States to hold teacher preparation programs more accountable. Some commenters were generally supportive of the feedback loop where teacher candidate placement, retention, and elementary and secondary classroom student achievement results can be reported back to the programs and published so that the programs can improve.

In general, many commenters opposed the use of the indicators of academic content knowledge and teaching skills in the SRC, stating that these indicators are arbitrary, and that there is no empirical evidence that connects the indicators to a quality teacher preparation program; that the proposed indicators have never been tested or evaluated to determine their workability; and that there is no consensus in research or among the teaching profession that the proposed performance indicators combine to accurately represent teacher preparation program quality. Other commenters opined that there is no evidence that the indicators selected actually represent program effectiveness, and further stated that no algorithm would accurately reflect program effectiveness and be able to connect those variables to a ranking system. Many commenters expressed concern about the proposed assessment system, stating that reliability and validity data are lacking. Some commenters indicated that reporting may not need to be annual since multi-year data are more reliable.

Commenters also stated that valid conclusions about teacher preparation program quality cannot be drawn using data with questionable validity and with confounding factors that cannot be controlled at the national level to produce a national rating system for teacher preparation programs. Many other commenters stated that teacher performance cannot be equated with the performance of the students they teach and that there are additional factors that impact teacher preparation program effectiveness that have not been taken into account by the proposed regulations. We interpret other comments as expressing concern that use of the outcome indicators would not necessarily help to ensure that teachers

are better prepared before entering the classroom.

Commenters stated that there are many potential opportunities for measurement error in the outcome indicators and therefore the existing data do not support a large, fully scaled implementation of this accountability system. Commenters argued that the regulations extend an untested performance assessment into a high-stakes realm by determining eligibility for Federal student aid through assessing the effectiveness of each teacher preparation program. One commenter stated that, in proposing the regulations, the Department did not consider issues that increase measurement error, and thus decrease the validity of inferences that can be made about teacher quality. For example, students who graduate but do not find a teaching job because they have chosen to stay in a specific geographic location would essentially count against a school and its respective ranking. Several commenters suggested that we pilot the proposed system and assess its outcomes, using factors that are flexible and contextualized within a narrative, without high-stakes consequences until any issues in data collection are worked out.

Discussion: We appreciate commenters' concerns about the validity and reliability of the individual indicators of academic content knowledge and teaching skill in the proposed regulations, as well as the relationship between these indicators and the level of performance of a teacher preparation program. However, we believe the commenters misunderstood the point we were making in the preamble to the NPRM about the basis for the proposed indicators. We were not asserting that rigorous research studies had necessarily demonstrated the proposed indicators—and particularly those for student learning outcomes, employment outcomes, employment outcomes in high-need schools and survey outcomes—to be valid and reliable. Where we believe that such research shows one or more of the indicators to be valid and reliable, we have highlighted those findings in our response to the comment on that indicator. But our assertion in the preamble to the NPRM was that use of these indicators would produce information about the performance-level of each teacher preparation program that, speaking broadly, is valid and reliable. We certainly did not say that these indicators were necessarily the only measures that would permit the State's identification of each program's

level of performance to be appropriate. And in our discussion of public comments we have clarified that States are free to work with their consultative group (see § 612.4(c)) to establish other measures the State would use as well.

In broad terms, validity here refers to the accuracy of these indicators in measuring what they are supposed to measure, *i.e.*, that they collectively work to provide significant information about a teacher preparation program's level of performance. Again, in broad terms, reliability here refers to the extent to which these indicators collectively can be used to assess a program's level of performance and to yield consistent results.

For reasons we explain below, we believe it is important that teacher preparation programs produce new teachers who positively impact student academic success, take jobs as teachers and stay in the profession at least three years, and feel confident about the training the programs have provided to them. This is what these three indicators in our final regulations do—and by contrast what is missing from the criteria that States have reported in SRCs that they have used to date to assess program performance.

We do not believe that State conclusions about the performance levels of their teacher preparation programs can be valid or reliable if they, as State criteria have done to date, focus on inputs a program offers any more than an automobile manufacturer's assessment of the validity and reliability of its safety and performance testing make sense if they do not pay attention to how the vehicles actually perform on the road.

Our final regulations give States, working with their stakeholders, the responsibility for establishing procedures for ensuring that use of these indicators, and such other indicators of academic content knowledge and teaching skills and other criteria the State may establish, permits the State to reasonably identify (*i.e.*, with reasonable validity and reliability) those teacher preparation programs that are low-performing or at-risk of being low-performing. We understand that, to do this, they will need to identify and implement procedures for generating relevant data on how each program reflects these measures and criteria, and for using those data to assess each program in terms of its differentiated levels of performance. But we have no doubt that States can do this in ways that are fair to entities that are operating good programs while at the same time are fair to prospective teachers, prospective employers, elementary and

secondary school students and their parents, and the general public—all of whom rely on States to identify and address problems with low-performing or at-risk programs.

We further note that by defining novice teacher to include a three-year teaching period, which applies collected for student learning outcomes and employment outcomes, the regulations will have States use data for these indicators of program performance over multiple years. Doing so will increase reliability of the overall level of performance the State assigns to each program in at least two respects. First, it will decrease the chance that one aberrational year of performance or any given cohort of program graduates (or program participants in the case of alternative route teacher preparation programs) has a disproportionate effect on a program's performance. And second, it will decrease the chance that the level of performance a State reports for a program will be invalid or unreliable.

We stress, however, that the student learning outcomes, employment outcomes, and survey outcomes that the regulations require States to use as indicators of academic content and teaching skills are not simply measures that logically are important to assessing a program's true level of performance. Rather, as we discuss below, we believe that these measures are also workable, based on research, and reflective of the direction in which many States and programs are going, even if not reflecting an outright consensus of all teacher preparation programs.

In this regard, we disagree with the commenters' assertions that these measures are arbitrary, lack evidence of support, and have not been tested. The Department's decision to require use of these measures as indicators of academic content knowledge and teaching skills is reinforced by the adoption of similar indicators by CAEP,¹⁵ which reviews over half of the Nation's teacher preparation programs—and by the States of North Carolina, Tennessee, Ohio, and Louisiana, which already report annually on indicators of teacher preparation program performance based on data from State assessments. The recent GAO report determined that more than half the States already utilize data on program completers' effectiveness (such as surveys, placement rates, and teacher evaluation results) in assessing

¹⁵ CAEP 2013 Accreditation Standards, Standard 4, Indicator 4. (2013). Retrieved from <http://caepnet.org/standards/introduction>. Amended by the CAEP Board of Directors February 13, 2015.

programs, with at least ten more planning to do so.¹⁶ These measures also reflect input received from many non-Federal negotiators during negotiated rulemaking. Taken together, we believe that the adoption of these measures of academic content knowledge and teaching skills reflects the direction in which the field is moving, and the current use of similar indicators by several SEAs demonstrates their feasibility.

We acknowledge that many factors account for the variation in a teacher's impact on student learning. However, we strongly believe that a principal function of any teacher preparation program is to train teachers to promote the academic growth of all students regardless of their personal and family circumstances, and that the indicators whose use the regulations prescribe are already being used to help measure programs' success in doing so. For example, Tennessee employs some of the outcome measures that the regulations require, and reports that some teacher preparation programs consistently produce teachers with statistically significant student learning outcomes over multiple years.¹⁷ Delaware also collects and reports data on the performance and effectiveness of program graduates by student achievement and reports differentiated student learning outcomes by teacher preparation program.¹⁸ Studies of programs in Washington State¹⁹ and New York City,²⁰ as well as data from the University of North Carolina system,²¹ also demonstrate that graduates of different teacher preparation programs show statistically significant differences in value-added scores. The same kinds of data from Tennessee and North Carolina show large differences in teacher placement and retention rates among programs. In Ohio²² and North Carolina, survey data

also demonstrate that, on average, graduates of teacher preparation programs can have large differences in opinions of the quality of their preparation for the classroom. And a separate study of North Carolina teacher preparation programs found statistically significant correlations between programs that collect outcomes data on graduates and their graduate's value-added scores.²³ These results reinforce that teacher preparation programs play an important role in teacher effectiveness, and so give prospective students and employers important information about which teacher preparation programs most consistently produce teachers who can best promote student academic achievement.

While we acknowledge that some studies of teacher preparation programs²⁴ find very small differences at the program level in graduates' average effect on student outcomes, we believe that the examples we have cited above provide a reasonable basis for States' use of student learning outcomes weighted in ways that they have determined best reflect the importance of this indicator. In addition, we believe the data will help programs develop insights into how they can more consistently generate high-performing graduates.

We have found little research one way or the other that directly ties the performance of teacher preparation programs to employment outcomes and survey outcomes. However, we believe that these other measures—program graduates and alternative route program participants' employment as teachers, retention in the profession, and perceptions (with those of their employers) of how well their programs have trained them for the classroom—strongly complement use of student learning outcomes in that they help to complete the picture of how well programs have really trained teachers to

take and maintain their teaching responsibilities.

We understand that research into how best to evaluate both teacher effectiveness and the quality of teacher preparation programs continues. To accommodate future developments in research that improve a State's ability to measure program quality as well as State perspectives of how the performance of teacher preparation programs should best be measured, the regulations allow a State to include other indicators of academic content knowledge and teaching skills that measure teachers' effects on student performance (see § 612.5(b)). In addition, given their importance, while we strongly encourage States to provide significant weight in particular to the student learning outcomes and retention rate outcomes in high-need schools in their procedures for assessing program performance, the Department has eliminated the proposed requirements in § 612.4(b)(1) that States consider these measures "in significant part." The change confirms States' ability to determine how to weight each of these indicators to reflect their own understanding of how best to assess program performance and address any concerns with measurement error. Moreover, the regulations offer States a pilot year, corresponding to the 2017–18 reporting year (for data States are to report in SRCs by October 31, 2018, in which to address and correct for any issues with data collection, measurement error, validity, or reliability in their reported data.

Use of these indicators themselves, of course, does not ensure that novice teachers are prepared to enter the classroom. However, we believe that the regulations, including the requirement for public reporting on each indicator and criterion a State uses to assess a program's level of performance, provide strong incentives for teacher preparation programs to use the feedback from these measures to ensure that the novice teachers they train are ready to take on their teaching responsibilities when they enter the classroom.

We continue to stress that the data on program performance that States report in their SRCs do not create and are not designed to promote any kind of a national, in-State, or interstate rating system for teacher preparation programs, and caution the public against using reported data in this way. Rather, States will use reported data to evaluate program quality based on the indicators of academic content knowledge and teaching skills and other criteria of program performance that they decide to use for this purpose. Of

¹⁶ GAO at 13–14.

¹⁷ See Report Card on the Effectiveness of Teacher Training Programs, Tennessee 2014 Report Card. (n.d.). Retrieved from www.tn.gov/thec/article/report-card.

¹⁸ See 2015 Delaware Educator Preparation Program Reports. (n.d.). Retrieved June 27, 2016 from www.doe.k12.de.us/domain/398.

¹⁹ Goldhaber, D., & Liddle, S. (2013). The Gateway to the Profession: Assessing Teacher Preparation Programs Based on Student Achievement. *Economics of Education Review*, 34, 29–44.

²⁰ Boyd, D., Grossman, P., Lankford, H., Loeb, S., & Wyckoff, J. (2009). Teacher Preparation and Student Achievement. *Education Evaluation and Policy Analysis*, 31(4), 416–440.

²¹ See UNC Educator Quality Dashboard. (n.d.). Retrieved from <http://tqdashboard.northcarolina.edu/performance-employment/>.

²² See, for example: 2013 Educator Preparation Performance Report Adolescence to Young Adult

(7–12) Integrated Mathematics Ohio State University. Retrieved from http://regents.ohio.gov/educator-accountability/performance-report/2013/OhioStateUniversity/OHSU_IntegratedMathematics.pdf.

²³ Henry, G., & Bastian, K. (2015). Measuring Up: The National Council on Teacher Quality's Ratings of Teacher Preparation Programs and Measures of Teacher Performance.

²⁴ For example: C. Koedel, E. Parsons, M. Podgursky, & M. Ehlert (2015). "Teacher Preparation Programs and Teacher Quality: Are There Real Differences Across Programs?" *Education Finance and Policy*, 10(4): 508–534; P. von Hippel, L. Bellows, C. Osborne, J. Arnold Lincove, & N. Mills (2014). "Teacher Quality Differences Between Teacher Preparation Programs: How Big? How Reliable? Which Programs Are Different?" Retrieved from Social Science Research Network, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2506935.

course, the Department and the public at large will use the reported information to gain confidence in State decisions about which programs are low-performing and at-risk of being low-performing (and are at any other performance level the State establishes) and the process and data States use to make these decisions.

Changes: None.

Comments: Commenters stated that it is not feasible to collect and report student learning outcomes or survey data separately by credential program for science, technology, engineering, and mathematics (STEM) programs in a meaningful way when only one science test is administered, and teacher preparation program graduates teach two or more science disciplines with job placements in at least two fields.

Discussion: We interpret these comments to be about teacher preparation programs that train teachers to teach STEM subjects. We also interpret these comments to mean that certain conditions—including, the placement or retention of recent graduates in more than one field, having only one statewide science assessment at the high school level, and perhaps program size—may complicate State data collection and reporting on the required indicators for preparation programs that produce STEM teachers.

The regulations define the term “teacher of record” to clarify that teacher preparation programs will be assessed on the aggregate outcomes of novice teachers who are assigned the lead responsibility for a student’s learning in the subject area. In this way, although they may generate more data for the student learning outcomes measure, novice teachers who are teachers of record for more than one subject area are treated the same as those who teach in only one subject area.

We do not understand why a science teacher whose district administers only one examination is in a different position than a teacher of any other subject. More important, science is not yet a tested grade or subject under section 1111(b)(2) of the ESEA, as amended by ESSA. Therefore, for the purposes of generating data on a program’s student learning outcomes, States that use the definition of “student growth” in § 612.2 will determine student growth for teacher preparation programs that train science teachers through use of measures of student learning and performance that are rigorous, comparable across schools, and consistent with State guidelines. These might include student results on pre-tests and end-of-course tests,

objective performance-based assessments, and student learning objectives.

To the extent that the comments refer to small programs that train STEM teachers, the commenters did not indicate why our proposed procedures for reporting data and levels of performance for small teacher preparation programs did not adequately address their concerns. For reasons we discussed in response to comments on aggregating and then reporting data for small teacher preparation programs (§ 612.4(b)(3)(ii)), we believe the procedures the regulations establish for reporting performance of small programs adequately address concerns about program size.

Changes: None.

Comments: Commenters noted that the transition to new State assessments may affect reporting on student learning outcomes and stated that the proposed regulations fail to indicate when and how States must use the results of State assessments during such a transition for the purpose of evaluating teacher preparation program quality.

Discussion: For various reasons, one or more States are often transitioning to new State assessments, and this is likely to continue as States implement section 1111(b)(2) of the ESEA, as amended by ESSA. Therefore, transitioning to new State assessments should not impact a State’s ability to use data from these assessments as a measure of student learning outcomes, since there are valid statistical methods for determining student growth even during these periods of transition. However, how this should occur is best left to each State that is going through such a transition, just as it is best to leave to each State whether to use another State-determined measure relevant to calculating student learning outcomes as permitted by § 612.5(a)(1)(ii)(C) instead.

Changes: None.

Comments: Commenters recommended that the student learning outcomes indicator take into account whether a student with disabilities uses accommodations, and who is providing the accommodation. Another commenter was especially concerned about special education teachers’ individualized progress monitoring plans created to evaluate a student’s progress on individualized learning outcomes. The commenter noted that current research cautions against aggregation of student data gathered with these tools for the purposes of teacher evaluation.

Discussion: Under the regulations, outcome data is reported on “teachers of record,” defined as teachers (including a teacher in a co-teaching assignment) who have been assigned the lead responsibility for a student’s learning in a subject or course section. The teacher of record for a class that includes students with disabilities who require accommodations is responsible for the learning of those students, which may include ensuring the proper accommodations are provided. We decline to require, as data to be reported as part of the indicator, the number of students with disabilities requiring special accommodations because we assume that the LEA will meet its responsibilities to provide needed accommodations, and out of consideration for the additional reporting burden the proposal would place on States. However, States are free to adopt this recommendation if they choose to do so.

In terms of gathering data about the learning outcomes for students with disabilities, the regulations do not require the teacher of record to use special education teachers’ individualized monitoring plans to document student learning outcomes but rather expect teachers to identify, based on the unique needs of the students with disabilities, the appropriate data source. However, we stress that this issue highlights the importance of consultation with key stakeholders, like parents of and advocates for students with disabilities, as States determine how to calculate their student learning outcomes.

Changes: None.

Comments: Commenters recommended that the regulations establish the use of other or additional indicators, including the new teacher performance assessment edTPA, measures suggested by the Higher Education Task Force on Teacher Preparation, and standardized observations of teachers in the classroom. Some commenters contended that a teacher’s effectiveness can only be measured by mentor teachers and university field instructors. Other commenters recommended applying more weight to some indicators, such as students’ evaluations of their teachers, or increasing emphasis on other indicators, such as teachers’ scores on their licensure tests.

Discussion: We believe that the indicators of academic content knowledge and teaching skills that the regulations require States to use in assessing a program’s performance (*i.e.*, student learning outcomes, employment outcomes, survey outcomes, and

information about basic aspects of the program) are the most important such indicators in that, by focusing on a few key areas, they provide direct information about whether the program is meeting its basic purposes. We decline to require that States use additional or other indicators like those suggested because we strongly believe they are less direct measures of academic content knowledge and teaching skills that would also add significant cost and complexity. However, we note that if district evaluations of novice teachers use multiple valid measures in determining performance levels that include, among other things, data on student growth for all students, they are “teacher evaluation measures” under § 612.2. Therefore, § 612.5(a)(1)(ii) permits the State to use and report the results of those evaluations as student learning outcomes.

Moreover, under § 612.5(b), in assessing the performance of each teacher preparation program, a State may use additional indicators of academic content and teaching skills of its choosing, provided the State uses a consistent approach for all of its teacher preparation programs and these additional indicators provide information on how the graduates produced by the program perform in the classroom. In consultation with their stakeholder groups, States may wish to use additional indicators, such as edTPA, teacher classroom observations, or student survey results, to assess teacher preparation program performance.

As we addressed in our discussion of comment on § 612.4(b)(2)(ii) (Weighting of Indicators), we encourage States to give significant weight to student learning outcomes and employment outcomes in high-need schools. However, we have removed from the final regulations any requirement that States give special weight to these or other indicators of academic content knowledge and teaching skills. Thus, while States must include in their SRCs the weights they give to each indicator and any other criteria they use to identify a program’s level of performance, each State has full authority to determine the weighting it gives to each indicator or criterion.

Changes: None.

Comments: Some commenters expressed concerns that the regulations permit the exclusion of some program graduates (e.g., those leaving the State or taking jobs in private schools), thus providing an incomplete representation of program performance. In particular, commenters recommended using

measures that capture the academic content knowledge and teaching skills of all recent graduates, such as State licensure test scores, portfolio assessments, student and parent surveys, performance on the edTPA, and the rate at which graduates retake licensure assessments (as opposed to pass rates).

Discussion: While the three outcome-based measures required by the regulations assess the performance of program graduates who become novice teachers, the requirement in § 612.5(a)(4) for an indication of either a program’s specialized accreditation or that it provides certain minimum characteristics examines performance based on multiple input-based measures that apply to all program participants, including those who do not become novice teachers. States are not required to also assess teacher preparation programs on the basis of any of the additional factors that commenters suggest, i.e., State licensure test scores, portfolio assessments, student and parent surveys, performance on the edTPA, and the rate at which graduates retake licensure assessments. However, we note that IHEs must continue to include information in their IRCs on the pass rates of a program’s students on assessments required for State certification. Furthermore, in consultation with their stakeholders, States may choose to use the data and other factors commenters recommend to help determine a program’s level of performance.

Changes: None.

Comments: One commenter recommended that the Department fund a comprehensive five-year pilot of a variety of measures for assessing the range of K–12 student outcomes associated with teacher preparation.

Discussion: Committing funds for research is outside the scope of the regulations. We note that the Institute of Education Sciences and other research organizations are conducting research on teacher preparation programs that the Department believes will inform advances in the field.

Changes: None.

Comments: Some commenters stated that a teacher preparation program’s cost of attendance and the average starting salary of the novice teachers produced by the program should be included as mandatory indicators for program ratings because these two factors, along with student outcomes, would better allow stakeholders to understand the costs and benefits of a specific teacher preparation program.

Discussion: Section 205(b)(1)(F) of the HEA requires each State to identify in

its SRC the criteria it is using to identify the performance of each teacher preparation program within the State, including its indicators of the academic knowledge and teaching skills of the program’s students. The regulations define these indicators to include four measures that States must use as these indicators.

While we agree that information that helps prospective students identify programs that offer a good value is important, the purpose of sections 205(b)(1)(F) and 207(a) of the HEA, and thus our regulations, is to have States identify and report on meaningful criteria that they use to identify a program’s level of performance—and specifically whether the program is low-performing or at-risk of being low-performing. While we encourage States to find ways to make information on a program’s costs available to the public, we do not believe the information is sufficiently related to a program’s level of performance to warrant the additional costs of requiring States to report it. For similar reasons, we decline to add this consumer information to the SRC as additional data States need to report independent of its use in assessing the program’s level of performance.

Changes: None.

Comments: Multiple commenters stated that the teacher preparation system in the United States should mirror that of other countries and broaden the definition of classroom readiness. These commenters stated that teacher preparation programs should address readiness within a more holistic, developmental, and collective framework. Others stated that the teacher preparation system should emphasize experiential and community service styles of teaching and learning to increase student engagement.

Discussion: While we appreciate commenters’ suggestions that teacher preparation programs should be evaluated using holistic measures similar to those used by other countries, we decline to include these kinds of criteria because we believe that the ability to influence student growth and achievement is the most direct measure of academic knowledge and teaching skills. However, the regulations permit States to include indicators like those recommended by the commenters in their criteria for assessing program performance.

Changes: None.

Comments: Commenters noted that post-graduation professional development impacts a teacher’s job performance in that there may be a difference between teachers who continue to learn during their early

teaching years compared to those who do not, but that the proposed regulations did not take this factor into account.

Discussion: By requiring the use of data from the first, second, and third year of teaching, the student learning outcomes measure captures improvements in the impact of teachers on student learning made over the first three years of teaching. To the extent that professional development received in the first three years of teaching contributes to a teacher's impact on student learning, the student learning outcomes measure may reflect it.

The commenters may be suggesting that student learning outcomes of novice teachers are partially the consequence of the professional development they receive, yet the proposed regulations seem to attribute student learning outcomes to only the teacher preparation program. The preparation that novice teachers receive in their teacher preparation programs, of course, is not the only factor that influences student learning outcomes. But for reasons we have stated, the failure of recent graduates as a whole to demonstrate positive student learning outcomes is an indicator that something in the teacher preparation program is not working. We recognize that novice teachers receive various forms of professional development, but believe that high-quality teacher preparation programs produce graduates who have the knowledge and skills they need to earn positive reviews and stay in the classroom regardless of the type of training they receive on the job.

Changes: None.

Comments: Commenters were concerned that the proposed regulations would pressure States to rate some programs as low-performing even if all programs in a State are performing adequately. Commenters noted that the regulations need to ensure that programs are all rated on their own merits, rather than ranked against one another—i.e., criterion-referenced rather than norm-referenced. The commenters contended that, otherwise, programs would compete against one another rather than work together to continually improve the quality of novice teachers. Commenters stated that such competition could lead to further isolation of programs rather than fostering the collaboration necessary for addressing shortages in high-need fields.

Some commenters stated that although there can be differences in traditional and alternative route programs that make comparison difficult, political forces that are pro- or

anti-alternative route programs can attempt to make certain types of programs look better or worse. Further, commenters noted that it will be difficult for the Department to enforce equivalent levels of accountability and reporting when differences exist across States' indicators and relative weighting decisions.

Another commenter recommended that, to provide context, programs and States should also report raw numbers in addition to rates for these metrics.

Discussion: We interpret the comment on low-performing programs to argue that these regulations might be viewed as requiring a State to rate a certain number of programs as low performing regardless of their performance. Section 207(a) of the HEA requires that States provide in the SRCs an annual list of low-performing teacher preparation programs and identify those programs that are at risk of being put on the list of low-performing programs. While the regulations require States to establish at least three performance categories (those two and all other programs, which would therefore be considered effective or higher), we encourage States also to differentiate between teacher preparation programs whose performance is satisfactory and those whose performance is truly exceptional. We believe that recognizing, and where possible rewarding (see § 612.4(c)(1)(ii)(C)), excellence will help other programs learn from best practice and facilitate program improvement of teacher preparation programs and entities. Actions like these will encourage collaboration, especially in preparing teachers to succeed in high-need areas.

However, we stress that the Department has no expectation or desire that a State will designate a certain number or percentage of its programs as low-performing or at-risk of being low-performing. Rather, we want States to do what our regulations provide: Assess the level of performance of each teacher preparation program based on what they determine to be differentiated levels of performance, and report in the SRCs (1) the data they secure about each program based on the indicators and other criteria they use to assess program performance, (2) the weighting of these data to generate the program's level of performance, and (3) a list of programs it found to be low-performing or at-risk of being low-performing. Beyond this, these regulations do not create, and are not designed to promote, an in-State or inter-State ranking system, or to rank traditional versus alternative route programs based on the reported data.

We acknowledge that if they choose, States may employ growth measures specifically based on a relative distribution of teacher scores statewide, which could constitute a "norm-referenced" indicator. While these statewide scores may not improve on the whole, an individual teacher preparation program's performance can still show improvement (or declines) relative to average teacher performance in the State. The Department notes that programs are evaluated on multiple measures of program quality and the other required indicators can be criterion-referenced. For example, a State may set a specific threshold for retention rate or employer satisfaction that a program must meet to be rated as effective. Additionally, States may decide to compare any norm-referenced student learning outcomes, and other indicators, to those of teachers prepared out of State to determine relative improvement of teacher preparation programs as a whole.²⁵ But whether or not to take steps like these is purely a State decision.

With respect to the recommendation that report cards include raw numbers as well as rates attributable to the indicators and other criteria used to assess program performance, § 612.4(b)(2)(i) requires the State to report data relative to each indicator identified in § 612.5. Section V of the instructions for the SRC asks for the numbers and percentages used in the calculation of the indicators of academic content knowledge and teaching skills and any other indicators and criteria a State uses.

Changes: None.

Comments: Commenters contended that the proposed regulations do not specifically address the skills enumerated in the definition of "teaching skills."

Discussion: The commenters are correct that the regulations do not specifically address the various "teaching skills" identified in the definition of the term in section 200(23) of the HEA. However, we strongly believe that they do not need to do so.

The regulations require States to use establish four indicators of academic content knowledge and teaching skills—student learning outcomes, employment outcomes, survey results, and minimum program characteristics—in assessing the level of a teacher preparation program's performance under sections 205(b)(1)(F) and 207(a) of the HEA. In

²⁵ See, for example: See UNC Educator Quality Dashboard.(n.d.). Retrieved from <http://tqdashboard.northcarolina.edu/performance-employment/>.

establishing these indicators, we are mindful of the definition of “teaching skills” in section 200(23) of the HEA, which includes skills that enable a teacher to increase student learning, achievement, and the ability to apply knowledge, and to effectively convey and explain academic subject matter. In both the NPRM and the discussion of our response to comment on § 612.5(a)(1)–(4), we explain why each of the four measures is, in fact, a reasonable indicator of whether teachers have academic content knowledge and teaching skills. We see no reason the regulations need either to enumerate the definition of teaching skills in section 200(23) or to expressly tie these indicators to the statutory definition of one term included in “academic content knowledge and teaching skills”.

Changes: None.

Comments: Some commenters stated that the use of a rating system with associated consequences is a “test and punish” accountability model similar to the K–12 accountability system under the ESEA, as amended by the No Child Left Behind Act (NCLB). They contended that such a system limits innovation and growth within academia and denies the importance of capacity building.

Discussion: We do not believe that the requirements the regulations establish for the title II reporting system are punitive. The existing HEA title II reporting framework has not provided useful feedback to teacher preparation programs, prospective teachers, other stakeholders, or the public on program performance. Until now, States have identified few programs deserving of recognition or remediation. This is because few of the criteria they to date have reported that they use to assess program performance, under section 205(b)(1)(F) of the HEA, rely on information that examines program quality from the most critical perspective—teachers’ ability to impact student achievement once they begin teaching. Given the importance of academic knowledge and teaching skills, we are confident that the associated indicators in the regulations will help provide more meaningful information about the quality of these programs, which will then facilitate self-improvement and, by extension, production of novice teachers better trained to help students achieve once they enter the classroom.

Thus, the regulations address shortcomings in the current State reporting system by defining indicators of academic content knowledge and teaching skills, focusing on program outcomes that States will use to assess

program performance. The regulations build on current State systems and create a much-needed feedback loop to facilitate program improvement and provide valuable information to prospective teachers, potential employers, the general public, and the programs themselves. We agree that program innovation and capacity building are worthwhile, and we believe that what States will report on each program will encourage these efforts.

Under the regulations, teacher preparation programs whose graduates (or participants, if they are teachers while being trained in an alternative route program) do not demonstrate positive student learning outcomes are not punished, nor are States required to punish programs. To the extent that proposed § 612.4(b)(2), which would have permitted a program to be considered effective or higher only if the teachers it produces demonstrate satisfactory or higher student learning outcomes, raised concerns about the regulations seeming punitive, we have removed that provision from the final regulations. Thus, the regulations echo the requirements of section 207(a) of the HEA, which requires that States annually identify teacher preparation programs that are low-performing or that are at-risk of becoming low-performing, and section 207(b) of the HEA, which prescribes the consequences for a program from which the State has withdrawn its approval or terminated its financial support. For a discussion of the relationship between the State classification of teacher preparation programs and TEACH Grant eligibility, see § 686.2 regarding a TEACH Grant-eligible program.

Changes: None.

Comments: None.

Discussion: In removing the term “new teacher” and adding the term “novice teacher,” as discussed earlier in this document, it became unclear for what period of time a State must report data related to those teachers. To resolve this, we have clarified that a State may, at its discretion, exclude from reporting those individuals who have not become novice teachers after three years of becoming a “recent graduate,” as defined in the regulations. We believe that requiring States to report on individuals who become novice teachers more than three years after those teachers graduated from a teacher preparation program is overly burdensome and would not provide an accurate reflection of teacher preparation program quality.

Changes: We have added § 612.5(c) to clarify that States may exclude from reporting under § 612.5(a)(1)–(3)

individuals who have not become novice teachers after three years of becoming recent graduates.

Student Learning Outcomes (34 CFR 612.5(a)(1))

Growth, VAM, and Other Methodological Concerns

Comments: Many commenters argued that the proposed definition of “student learning outcomes” invites States to use VAM to judge teachers and teacher preparation programs. Those commenters argued that because the efficacy of VAM is not established, the definition of “student learning outcomes” is not solidly grounded in research.

Discussion: For those States that choose to do so, the final regulations permit States to use any measures of student growth for novice teachers that meet the definitions in § 612.2 in reporting on a program’s student learning outcomes. Their options include a simple comparison of student scores on assessments between two points in time for grades and subjects subject to section 1111(b)(2) of the ESEA, as amended by ESSA, a range of options measuring student learning and performance for non-tested grades and subjects (which can also be used to supplement scores for tested grades and subjects), or more complex statistical measures, like student growth percentiles (SGPs) or VAM that control for observable student characteristics. A detailed discussion of the use of VAM as a specific growth measure follows below; the discussion addresses the use of VAM in student learning outcomes, should States choose to use it. However, we also note that the requirement for States to assess teacher preparation programs based, in part, on student learning outcomes also allows States that choose not to use student growth to use a teacher evaluation measure or another State-determined measure relevant to calculating student learning outcomes. Nothing in the final regulations require the use of VAM over other methodologies for calculating student growth, specifically, or student learning outcomes, more broadly.

These comments also led us to see potential confusion in the proposed definitions of student learning outcomes and student growth. In reviewing the proposed regulations, we recognized that the original structure of the definition of “student learning outcomes” could cause confusion. We are concerned that having a definition for the term, which was intended only to operationalize the other definitions in the context of § 612.5, was not the

clearest way to present the requirements. To clarify how student learning outcomes are considered under the regulations, we have removed the definition of “student learning outcomes” from § 612.2, and revised § 612.5(a)(1) to incorporate, and operationalize, that definition.

Changes: We have removed the definition of “student learning outcomes” and revised § 612.5(a)(1) to incorporate key aspects of that proposed definition. In addition, we have provided States with the option to determine student learning outcomes using another State-determined measure relevant to calculating student learning outcomes.

Comments: Many commenters stated that the proposed student learning outcomes would not adequately serve as an indicator of academic content knowledge and teaching skills for the purpose of assessing teacher preparation program performance. Commenters also contended that tests only measure the ability to memorize and that several kinds of intelligence and ways of learning cannot be measured by testing.

In general, commenters questioned the Department’s basis for the use of student learning outcomes as one measure of teacher preparation program performance, citing research to support their claim that the method of measuring student learning outcomes as proposed in the regulations is neither valid nor reliable, and that there is no evidence to support the idea that student outcomes are related to the quality of the teacher preparation program attended by the teacher. Commenters further expressed concerns about the emphasis on linking children’s test scores on mandated standardized tests to student learning outcomes. Commenters also stated that teacher preparation programs are responsible for only a small portion of the variation in teacher quality.

Commenters proposed that aggregate teacher evaluation results be the only measure of student learning outcomes so long as the State teacher evaluations do not overly rely on results from standardized tests. Commenters stated that in at least one State, teacher evaluations cannot be used as part of teacher licensure decisions or to reappoint teachers due to the subjective nature of the evaluations.

Some commenters argued that student growth cannot be defined as a simple comparison of achievement between two points in time.

One commenter, who stated that the proposed regulatory approach is thorough and aligned with current trends in evaluation, also expressed

concern that K–12 student performance (achievement) data are generally a snapshot in time, typically the result of one standardized test, that does not identify growth over time, the context of the test taking, or other variables that impact student learning.

Commenters further cited research that concluded that student achievement in the classroom is not a valid predictor of whether the teacher’s preparation program was high quality and asserted that other professions do not use data in such a simplistic way.

Another commenter stated that local teacher evaluation instruments vary significantly across towns and States.

Another commenter stated that student performance data reported in the aggregate and by subgroups to determine trends and areas for improvement is acceptable but should not be used to label or categorize a school system, school, or classroom teacher.

Discussion: As discussed above, in the final regulations we have removed the requirement that States consider student growth “in significant part,” in their procedures for annually assessing teacher preparation program performance. Therefore, while we encourage States to use student growth as their measure of student learning outcomes and to adopt such a weighting of student learning outcomes on their own, our regulations give States broad flexibility to decide how to weight student learning outcomes in consultation with stakeholders (see § 612.4(c)), with the aim of it being a sound and reasonable indicator of teacher preparation program performance. Similarly, we decline commenters’ suggestions to restrict the measure of student learning outcomes to only aggregated teacher evaluation results, in order to maintain that flexibility. With our decision to permit States to use their own State-determined measure relevant to calculating student learning outcomes rather than student growth or a teacher evaluation measure, we have provided even more State flexibility in calculating student learning outcomes than commenters had requested.

As we have previously stated, we intend the use of all indicators of academic content knowledge and teaching skills to produce information about the performance-level of each teacher preparation program that, speaking broadly, is valid and reliable. It is clear from the comments we received that there is not an outright consensus on using student learning outcomes to help measure teacher preparation program performance;

however, we strongly believe that a program’s ability to prepare teachers who can positively influence student academic achievement is both an indicator of their academic content knowledge and teaching skills, and a critical measure for assessing a teacher preparation program’s performance. Student learning outcomes therefore belong among multiple measures States must use. We continue to highlight growth as a particularly appropriate way to measure a teacher’s effect on student learning because it takes a student’s prior achievement into account, gives a teacher an opportunity to demonstrate success regardless of the student characteristics of the class, and therefore reflects the contribution of the teacher to student learning. Even where student growth is not used, producing teachers who can make a positive contribution to student learning should be a fundamental objective of any teacher preparation program and the reason why it should work to provide prospective teachers with academic content and teaching skills. Hence, student learning outcomes, as we define them in the regulations, associated with each teacher preparation program are an important part of an assessment of any program’s performance.

States therefore need to collect data on student learning outcomes—through either student growth that examines the change in student achievement in both tested and non-tested grades and subjects, a teacher evaluation measure as defined in the regulations, or another State-determined measure relevant to calculating student learning outcomes—and then link these data to the teacher preparation program that produced (or in the case of an alternative route program, is producing) these teachers.

In so doing, States may if they wish choose to use statistical measures of growth, like VAM or student growth percentiles, that control for student demographics that are typically associated with student achievement. There are multiple examples of the use of similar student learning outcomes in existing research and State reporting. Tennessee, for example, reports that some teacher preparation programs consistently exhibit statistically significant differences in student learning outcomes over multiple years, indicating that scores are reliable from one year to the next.²⁶ Studies from Washington State²⁷ and New York

²⁶ See Report Card on the Effectiveness of Teacher Training Programs, Tennessee 2014 Report Card. (n.d.). Retrieved from www.tn.gov/thec/article/report-card.

²⁷ D. Goldhaber & S. Liddle (2013). “The Gateway to the Profession: Assessing Teacher Preparation

City²⁸ also find statistically significant differences in the student learning outcomes of teachers from different teacher preparation programs as does the University of North Carolina in how it assesses its own teacher preparation programs.²⁹ Moreover, a teacher's effect on student growth is commonly used in education research and evaluation studies conducted by the Institute of Education Sciences as a valid measure of the effectiveness of other aspects of teacher training, like induction or professional development.³⁰

While some studies of teacher preparation programs³¹ in other States have not found statistically significant differences at the preparation program level in graduates' effects on student outcomes, we believe that there are enough examples of statistically significant differences in program performance on student learning outcomes to justify their inclusion in the SRC. In addition, because even these studies show a wide range of individual teacher effectiveness within a program, using these data can provide new insights that can help programs to produce more consistently high-performing graduates.

Moreover, looking at the related issue of educator evaluations, there is debate about the level of reliability and validity of the individual elements used in different teacher evaluation systems. However, there is evidence that student growth can be a useful and effective component in teacher evaluation systems. For example, a study found that dismissal threats and financial incentives based partially upon growth scores positively influenced teacher performance.^{32 33} In addition, there is

evidence that combining multiple measures, including student growth, into an overall evaluation result for a teacher can produce a more valid and reliable result than any one measure alone.³⁴ For these reasons, this regulation and § 612.5(b) continue to give States the option of using teacher evaluation systems based on multiple measures that include student growth to satisfy the student learning outcomes requirement.

Teacher preparation programs may well only account for some of the variation in student learning outcomes. However, this does not absolve programs from being accountable for the extent to which their graduates positively impact student achievement. Thus, while the regulations are not intended to address the entire scope of student achievement or all factors that contribute to student learning outcomes, the regulations focus on student learning outcomes as an indicator of whether or not the program is performing properly. In doing so, one would expect that, through a greater focus on their student learning outcomes, States and teacher preparation programs will thereby have the benefit of some basic data about where their work to provide all students with academic content knowledge and teaching skills need to improve.

Changes: None.

Comments: Other commenters stated that there are many additional factors that can impact student learning outcomes that were not taken into account in the proposed regulations; that teacher evaluation is incomplete without taking into account the context in which teachers work on a daily basis; and that VAM only account for some contextual factors. Commenters stated that any proposed policies to directly link student test scores to teacher evaluation and teacher preparation programs must recognize that schools and classrooms are situated in a broader socioeconomic context.

Commenters pointed out that not all graduates from a specific institution or program will be teaching in similar school contexts and that many factors influencing student achievement cannot be controlled for between testing intervals. Commenters also cited other contributing factors to test results that are not in a teacher's control, including poverty and poverty-related stress; inadequate access to health care; food

insecurity; the student's development, family, home life, and community; the student's background knowledge; the available resources in the school district and classroom; school leadership, school curriculum, students not taking testing situations seriously; and school working conditions. Commenters also noted that students are not randomly placed into classrooms or schools, and are often grouped by socioeconomic class, and linguistic segregation, which influences test results.

Discussion: Many commenters described unmeasured or poorly measured student and classroom characteristics that might bias the measurement of student outcomes and noted that students are not randomly assigned to teachers. These are valid concerns and many of the factors stated are correlated with student performance.

However, teacher preparation programs should prepare novice teachers to be effective and successful in all classroom environments, including in high-need schools. It is for this reason, as well as to encourage States to highlight successes in these areas, that we include as indicators of academic content knowledge and teaching skills, placement and retention rates in high-need schools.

In addition, States and school districts can control for different kinds of student and classroom characteristics in the ways in which they determine student learning outcomes (and student growth). States can, for example, control for school level characteristics like the concentration of low-income students in the school and in doing so compare teachers who teach in similar schools. Evidence cited below that student growth, as measured by well-designed statistical models, captures the causal effects of teachers on their students also suggests that measures of student growth can successfully mitigate much of potential bias, and supports the conclusion that non-random sorting of students into classrooms does not cause substantial bias in student learning outcomes. We stress, however, the decision to use such controls and other statistical measures to control for student and school characteristics in calculating student learning outcomes is up to States in consultation with their stakeholder groups.

Changes: None.

Comments: Commenters contended that although the proposed regulations offer States the option of using a teacher evaluation measure in lieu of, or in addition to, a student growth measure, this option does not provide a real alternative because it also requires that

Programs Based on Student Achievement." *Economics of Education Review*, 34: 29–44.

²⁸ D. Boyd, P. Grossman, H. Lankford, S. Loeb, & J. Wyckoff. (2009). Teacher Preparation and Student Achievement. *Education Evaluation and Policy Analysis*, 31(4), 416–440.

²⁹ See UNC Educator Quality Dashboard.(n.d.). Retrieved from <http://tqdashboard.northcarolina.edu/performance-employment/>.

³⁰ See for example, S. Glazerman, E. Isenberg, S. Dolfin, M. Bleeker, A. Johnson, M. Grider & M. Jacobus. 2010). *Impacts of comprehensive teacher induction: Final results from a randomized controlled study* (NCEE 2010–4027). Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education.

³¹ Koedel, C., Parsons, E., Podgursky, M., & Ehler, M. (2015). Teacher Preparation Programs and Teacher Quality: Are There Real Differences Across Programs? *Education Finance and Policy*, 10(4), 508–534.

³² Dee, T., & Wyckoff, J. (2015). Incentives, Selection, and Teacher Performance: Evidence from IMPACT. *Journal of Policy Analysis and Management*, 34(2), 267–297. doi:10.3386/w19529.

³³ Henry, G., & Bastian, K. (2015). Measuring Up: The National Council on Teacher Quality's Ratings

of Teacher Preparation Programs and Measures of Teacher Performance.

³⁴ Mihaly, K., McCaffrey, D., Staiger, D., & Lockwood, J. (2013, January 8). A Composite Estimator of Effective Teaching.

the three performance levels in the teacher evaluation measure include, as a significant factor, data on student growth, and student growth relies on student test scores. Also, while the regulations provide that evaluations need not rely on VAM, commenters suggested that VAM will drive teacher effectiveness determinations because student learning is assessed either through student growth (which includes the use of VAM) or teacher evaluation (which is based in large part on student growth), so there really is no realistic option besides VAM. Commenters also stated that VAM requirements in Race to the Top and ESEA flexibility, along with State-level legislative action, create a context in which districts are compelled to use VAM.

A large number of commenters stated that research points to the challenges and ineffectiveness of using VAM to evaluate both teachers and teacher preparation programs, and asserted that the data collected will be neither meaningful nor useful. Commenters also stated that use of VAM for decision-making in education has been discredited by leading academic and professional organizations such as the American Statistical Association (ASA)³⁵, the American Educational Research Association, and the National Academy of Education.^{36, 37} Commenters provided research in support of their arguments, asserting in particular ASA's contention that VAM do not meet professional standards for validity and reliability when applied to teacher preparation programs. Commenters voiced concerns that VAM typically measure correlation and not causation, often citing the ASA's assertions. Commenters also contended that student outcomes have not been shown to be correlated with, much less predictive of, good teaching; VAM scores and rankings can change substantially when a different model or test is used, and variation among teachers accounts for a small part of the variation in student test scores. One commenter stated that student learning outcomes are not data but target skills and therefore the Department incorrectly defined "student learning outcomes." We interpret this comment

to mean that tests that may form the base of student growth only measure certain skills rather than longer term student outcomes.

Many commenters also noted that value-added models of student achievement are developed and normed to test student achievement, not to evaluate educators, so using these models to evaluate educators is invalid because the tests have not been validated for that purpose. Commenters further noted that value-added models of student achievement tied to individual teachers should not be used for high-stakes, individual-level decisions or comparisons across highly dissimilar schools or student populations.

Commenters stated that in psychometric terms, VAM are not reliable. They contended that it is a well-established principle that reliability is a necessary but not sufficient condition for validity. If judgments about a teacher preparation program vary based on the method of estimating value-added scores, inferences made about programs cannot be trusted.

Others noted Edward Haertel's³⁸ conclusion that no statistical manipulation can assure fair comparisons of teachers working in very different schools, with very different students, under very different conditions. Commenters also noted Bruce Baker's conclusions that even a 20 percent weight to VAM scores can skew results too much. Thus, according to the commenters, though the proposed regulations permit States to define what is "significant" for the purposes of using student learning outcomes "in significant part," unreliable and invalid VAM scores end up with at least a 20 percent weight in teacher evaluations.

Discussion: The proposed definition of teacher evaluation measure in § 612.2 did provide that student growth be considered in significant part, but we have removed that aspect of the definition of teacher evaluation measure from the final regulations. Moreover, we agree that use of such an evaluation system may have been required, for example, in order for a State to receive ESEA flexibility, and States may still choose to consider student growth in significant part in a teacher evaluation measure. However, not only are States not required to include growth "in significant part" in a teacher evaluation

measure used for student learning outcomes, but § 612.5(a)(1)(ii) clarifies that States may choose to measure student learning outcomes without using student growth at all.

On the use of VAM specifically, we reiterate that the regulations permit multiple ways of measuring student learning outcomes without use of VAM; if they use student growth, States are not required to use VAM. We note also that use of VAM was not a requirement of Race to the Top, nor was it a requirement of ESEA Flexibility, although many States that received Race to the Top funds or ESEA flexibility committed to using statistical models of student growth based on test scores. We also stress that in the context of these regulations, a State that chooses to use VAM and other statistical measures of student growth would use them to help assess the performance of teacher preparation programs as a whole. Neither the proposed nor final regulations address, as many commenters stated, how or whether a State or district might use the results of a statistical model for individual teachers' evaluations and any resulting personnel actions.

Many States and districts currently use a variety of statistical methods in teacher, principal, and school evaluation, as well as in State accountability systems. VAM are one such way of measuring student learning outcomes that are used by many States and districts for these accountability purposes. While we stress that the regulations do not require or anticipate the use of VAM to calculate student learning outcomes or teacher evaluation measures, we offer the following summary of VAM in view of the significant amount of comments the Department received on the subject.

VAM are statistical methodologies developed by researchers to estimate a teacher's unique contribution to growth in student achievement, and are used in teacher evaluation and evaluation of teacher preparation programs. Several experimental and quasi-experimental studies conducted in a variety of districts have found that VAM scores can measure the causal impact teachers have on student learning.³⁹ There is also

³⁵ American Statistical Association. (2014). *ASA Statement on Using Value-Added Models for Educational Assessment*: www.amstat.org/policy/pdfs/ASA_VAM_Statement.pdf.

³⁶ American Education Research Association (AERA) and National Academy of Education. (2011). *Getting teacher evaluation right: A brief for policymakers*. Washington, DC: AERA.

³⁷ Feuer, M. J., Floden, R. E., Chudowsky, N., & Ahn, J. (2013). *Evaluation of Teacher Preparation Programs: Purposes, Methods, and Policy Options*. Washington, DC: National Academy of Education.

³⁸ Haertel, E. 2013. *Reliability and Validity on Inferences about Teachers Based on Student Test Scores*. The 14th William H. Angoff Memorial Lecture, March 22. Princeton, NJ: Educational Testing Service. Retrieved from www.ets.org/Media/Research/pdf/PICANG14.pdf.

³⁹ For example: Kane, T., & Staiger, D. (2008). *Estimating teacher impacts on student achievement: An experimental evaluation*. doi:10.3386/w14607;; Kane, T., McCaffrey, D., Miller, T., & Staiger, D. (2013). *Have We Identified Effective Teachers? Validating Measures of Effective Teaching Using Random Assignment*; Bacher-Hicks, A., Kane, T., & Staiger, D. (2014). *Validating Teacher Effect Estimates Using Changes in Teacher Assignment in Los Angeles* (Working Paper No. 20657). Retrieved from National Bureau of Economic Research Web

strong evidence that VAM measure more than a teacher's ability to improve test scores; a recent paper found that teachers with higher VAM scores improved long term student outcomes such as earnings and college enrollment.⁴⁰ While tests often measure specific skills, these long-term effects show that measures of student growth are, in fact, measuring a teacher's effect on student outcomes rather than simple, rote memorization, test preparation on certain target skills, or a teacher's performance based solely on one specific student test. VAM have also been shown to consistently measure teacher quality over time and across different kinds of schools. A well-executed, randomized controlled trial found that, after the second year, elementary school students taught by teachers with high VAM scores who were induced to transfer to low-performing schools had higher reading and mathematics scores than students taught by comparison teachers in the same kinds of schools.⁴¹

The Department therefore disagrees with commenters who state that the efficacy of VAM is not grounded in sound research. We believe that VAM is commonly used as a component in many teacher evaluation systems precisely because the method minimizes the influence of observable factors independent of the teacher that might affect student achievement growth, like student poverty levels and prior levels of achievement.

Several commenters raised important points to consider with using VAM for teacher evaluation. Many cited the April 8, 2014, "ASA Statement on Using Value-Added Models for Educational Assessment" cited in the summary of comment, that makes several reasonable recommendations regarding the use of VAM, including its endorsement of wise use of data, statistical models, and designed experiments for improving the quality of education. We believe that the definitions of "student learning outcomes" and "student growth" in the regulations, is fully compatible with valid and reliable ways of including VAM to assess the impact of teachers on student academic growth. Therefore, States that chose to use VAM to generate student learning outcomes would have

the means to do what the ASA study recommends: Use data and statistical models to improve the quality of their teacher preparation programs. The ASA also wisely cautions that VAMs are complex statistical models, necessitating high levels of statistical expertise to develop and run and should include estimates of the model's precision. These specific recommendations are entirely consistent with the regulations, and we encourage States to follow them when using VAM.

We disagree, however, with the ASA and commenters' assertions that VAM typically measures correlation, not causation, and that VAM does not measure teacher contributions toward other student outcomes. These assertions contradict the evidence cited above that VAM does measure the causal effects of teachers on student achievement, and that teachers with high VAM scores also improve long-term student outcomes.

The implication of the various studies we cited in this section is clear; not only can VAM identify teachers who improve short- and long-term student outcomes, but VAM can play a substantial role in effective, useful teacher evaluation systems.

However, as we have said, States do not need to use VAM to generate student learning outcomes. Working with their stakeholders States can, if they choose, establish other means of reporting a teacher preparation program's "student learning outcomes" that meet the basic standard in § 612.5(a)(1).

Changes: None.

Comments: Two commenters suggested that the United States Government Accountability Office (GAO) do an analysis and suggest alternatives to VAM.

Discussion: The Secretary of Education has no authority to direct GAO's work, so these comments are outside the Department's authority, and the scope of the regulations.

Changes: None.

Comments: Several commenters opined that it is not fair to measure new teachers in the manner proposed in the regulations because it takes new teachers three to five years to become good at their craft. Other commenters mentioned that value-added scores cannot be generated until at least two years after a teacher candidate has graduated.

Discussion: We recognize the importance of experience in a teacher's development. However, while teachers can be expected to improve in effectiveness throughout their first few years in the classroom, under

§ 612.5(a)(1) a State is not using student learning outcomes to measure or predict the future or long-term performance of any individual teacher. It is using student learning outcomes to measure the performance of the teacher preparation program that the novice teacher completed—performance that, in part, should be measured in terms of a novice teacher's ability to achieve positive student learning outcomes in the first year the teacher begins to teach.

We note, however, that there is strong evidence that early career performance is a significant predictor of future performance. Two studies have found that growth scores in the first two years of a teacher's career, as measured by VAM, better predict future performance than measured teacher characteristics that are generally available to districts, such as a teacher's pathway into teaching, available credentialing scores and SAT scores, and competitiveness of undergraduate institution.⁴² Given that early career performance is a good predictor of future performance, it is reasonable to use early career results of the graduates of teacher preparation programs as an indicator of the performance of those programs. These studies also demonstrate that VAM scores can be calculated for first-year teachers.

Moreover, even if States choose not to use VAM results as student growth measures, the function of teacher preparation programs is to train teachers to be ready to teach when they enter the classroom. We believe student learning outcomes should be measured early in a teacher's career, when the impact of their preparation is likely to be the strongest. However, while we urge States to give significant weight to their student outcome measures across the board, the regulations leave to each State how to weight the indicators of academic content knowledge and teaching skills for novice teachers in their first and other years of teaching.

Changes: None.

Differences Between Accountability and Improvement

Comments: Commenters stated that the Department is confusing accountability with improvement by requiring data on and accountability of programs. Several commenters

Web site: www.nber.org/papers/w20657; Chetty, et al. at 2633–2679 and 2593–2632.

⁴⁰ Chetty, et al at 2633–2679.

⁴¹ Glazerman, S., Protik, A., Teh, B., Bruch, J., & Max, J. (2013). *Transfer incentives for high-performing teachers: Final results from a multisite randomized experiment* (NCEE 2014–4003). Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education. <http://files.eric.ed.gov/fulltext/ED544269.pdf>.

⁴² Atteberry, A., Loeb, S., & Wyckoff, J. (2015). Do first impressions matter? Improvement in early career teacher effectiveness. *American Educational Research Association (AERA) Open.*; Goldhaber, D., & Hansen, M. (2010). Assessing the Potential of Using Value-Added Estimates of Teacher Job Performance for Making Tenure Decisions. Working Paper 31. *National Center for Analysis of Longitudinal Data in Education Research.*

remarked that VAM will not guarantee continuous program improvement.

Discussion: The regulations require States to use the indicators of academic content knowledge and teaching skills identified in § 612.5(a), which may include VAM if a State chooses, to determine the performance level of each teacher preparation program, to report the data generated for each program, and to provide a list of which programs the State considers to be low-performing or at-risk of being low-performing. In addition, reporting the data the State uses to measure student learning outcomes will help States, IHEs, and other entities with teacher preparation programs to determine where their program graduates (or program participants in the case of alternative route to teaching programs) are or are not succeeding in increasing student achievement. No information available to those operating teacher preparation programs, whether from VAM or another source, can, on its own, ensure the programs' continuous improvement. However, those operating teacher preparation programs can use data on a program's student learning outcomes—along with data from employment outcomes, survey outcomes, and characteristics of the program—to identify key areas for improvement and focus their efforts. In addition, the availability of these data will provide States with key information in deciding what technical assistance to provide to these programs.

Changes: None.

Consistency

Comments: One commenter noted the lack of consistency in assessments at the State level, which we understand to be assessments of students across LEAs within the same State, will make the regulations almost impossible to operationalize. Another commenter noted that the comparisons will be invalid, unreliable, and inherently biased in favor of providers that enjoy State sponsorship and are most likely to receive favorable treatment under a State-sponsored assessment schema (which we understand to mean "scheme"). Until there is a common State assessment which we understand to mean common assessment of students across States, the commenter argued that any evaluation of teachers using student progress and growth will be variable at best.

Discussion: We first note that, regardless of the assessments a State uses to calculate student learning outcomes, the definition of student growth in § 612.2 requires that such assessments be comparable across

schools and consistent with State policies. While comparability across LEAs is not an issue for assessments administered pursuant to section 1111(b)(2) of the ESEA—which are other assessments used by the State for purposes of calculating student growth may not be identical, but are required to be comparable. As such, we do not believe that LEA-to-LEA or school-to-school variation in the particular assessments that are administered should inherently bias the calculation of student learning outcomes across teacher preparation programs.

Regarding comparability across States in the assessments administered to students, nothing in this regulation requires such comparability and, we believe such a requirement would infringe upon the discretion States have historically been provided under the ESEA in determining State standards, assessments, and curricula.

We understand the other comment to question the validity of comparisons of teacher preparation program ratings, as reported in the SRC. We continue to stress that the data regarding program performance reported in the SRCs and required by the regulations do not create, or intend to promote, any in-State or inter-State ranking system. Rather, we anticipate that States will use reported data to evaluate program performance based on State-specific weighting.

Changes: None.

Special Populations and Untested Subjects

Comments: Two commenters stated that VAMs will have an unfair impact on special education programs. Another commenter stated that for certain subjects, such as music education, it is difficult for students to demonstrate growth.

One commenter stated that there are validity issues with using tests to measure the skills of deaf children since standardized tests are based on hearing norms and may not be applicable to deaf children. Another commenter noted that deaf and hard-of-hearing K–12 students almost always fall below expected grade level standards, impacting student growth and, as a result, teacher preparation program ratings under our proposed regulations. In a similar vein, one commenter expressed concern that teacher preparation programs that prepare teachers of English learners may be unfairly branded as low-performing or at-risk because the students are forced to conform to tests that are neither valid nor reliable for them.

Discussion: The Department is very sensitive to the different teaching and

learning experiences associated with students with disabilities (including deaf and hard-of-hearing students) and English learners, and encourages States to use student learning outcome measures that allow teachers to demonstrate positive impact on student learning outcomes regardless of the prior achievement or other characteristics of students in their classroom. Where States use the results of assessments or other tests for student learning outcomes, such measures must also conform to appropriate testing accommodations provided to students that allow them to demonstrate content mastery instead of reflecting specific disabilities or language barriers.

We expect that these measures of student learning outcomes and other indicators used in State systems under this regulation will be developed in consultation with key stakeholders (see § 612.4(c)), and be based on measures of achievement that conform to student learning outcomes as described in in § 612.5(a)(1)(ii).

Changes: None.

Comments: Several commenters cited a study⁴³ stating unintended consequences associated with the high-stakes use of VAM, which emerged through teachers' responses. Commenters stated that the study revealed, among other things, that teachers felt heightened pressure and competition. This reduced morale and collaboration, and encouraged cheating or teaching to the test.

Some commenters stated that by, in effect, telling teacher preparation programs that their graduates should engage in behaviors that lift the test scores of their students, the likely main effect will be classrooms that are more directly committed to test preparation (and to what the psychometric community calls score inflation) than to advancement of a comprehensive education.

Discussion: The Department is sensitive to issues of pressure on teachers to artificially raise student assessment scores, and perceptions of some teachers that this emphasis on testing reduces teacher morale and collaboration. However, States and LEAs have responsibility to ensure that test data are monitored for cheating and other forms of manipulation, and we have no reason to believe that the regulations will increase these incidents. With regard to reducing teacher morale and collaboration, value-

⁴³ Collins, C (2014). Houston, we have a problem: Teachers find no value in the SAS education value-added assessment system (EVAAS®), *Education Policy Analysis Archives*, 22(98).

added scores are typically calculated statewide for all teachers in a common grade and subject. Because teachers are compared to all similarly situated teachers statewide, it is very unlikely that a teacher could affect her own score by refusing to collaborate with other teachers in a single school. We encourage teachers to collaborate across grades, subjects, and schools to improve their practice, but also stress that the regulations use student learning outcomes only to help assess the performance of teacher preparation programs. Under the regulations, where a State does not use student growth or teacher evaluation data already gathered for purposes of an LEA educator evaluation, data related to student learning outcomes is only used to help assess the quality of teacher preparation programs, and not the quality of individual teachers.

Changes: None.

Comments: Commenters were concerned that the regulations will not benefit high-need schools and communities because the indicator for student learning outcomes creates a disincentive for programs to place teachers in high-need schools and certain high-need fields, such as English as a Second Language. In particular, commenters expressed concern about the requirements that student learning outcomes be given significant weight and that a program have satisfactory or higher student learning outcomes in order to be considered effective. Commenters expressed particular concern in these areas with regard to Historically Black Colleges and Universities and other programs whose graduates, the commenters stated, are more likely to work in high-need schools.

Commenters opined that, to avoid unfavorable outcomes, teacher preparation programs will seek to place their graduates in higher-performing schools. Rather than encouraging stronger partnerships, commenters expressed concern that programs will abandon efforts to place graduates in low-performing schools. Others were concerned that teachers will self-select out of high-need schools, and a few commenters noted that high-performing schools will continue to have the most resources while teacher shortages in high-need schools, such as those in Native American communities, will be exacerbated.

Some commenters stated that it was unfair to assess a teacher preparation program based on, as we interpret the comment, the student learning outcomes of the novice teachers produced by the program because the

students taught by novice teachers may also receive instruction from other teachers who may have more than three years of experience teaching.

Discussion: As we have already noted, under the final regulations, States are not required to apply special weight to any of the indicators of academic content knowledge and teaching skills. Because of their special importance to the purpose of teacher preparation programs, we strongly encourage, but do not require, States to include employment outcomes for high-need schools and student learning outcomes in significant part when assessing teacher preparation program performance. We also encourage, but do not require, States to identify the quality of a teacher preparation program as effective or higher if the State determined that the program's graduates produce student learning outcomes that are satisfactory or higher.

For the purposes of the regulations, student learning outcomes may be calculated using student growth. Because growth measures the change in student achievement between two or more points in time, the prior achievement of students is taken into account. Teacher preparation programs may thus be assessed, in part, based on their recent graduates' efforts to increase student growth, not on whether the teachers' classrooms contained students who started as high or low achieving. For this reason, teachers—regardless of the academic achievement level of the students they teach—have the same opportunity to positively impact student growth. Likewise, teacher preparation programs that place students in high-need schools have the same opportunity to achieve satisfactory or higher student learning outcomes. These regulations take into account the commenters' concerns related to teacher equity as placement and retention in high-need schools are required metrics.

We recognize that many factors influence student achievement. Commenters who note that students taught by novice teachers may also receive instruction from other teachers who may have more than three years of experience teaching cite but one factor. But the objective in having States use student growth as an indicator of the performance of a teacher preparation program is not to finely calculate how novice teachers impact student growth. As we have said, it rather is to have the State determine whether a program's student learning outcomes are so far from the mark as to be an indicator of poor program performance.

For these reasons, we disagree with commenters that the student learning

outcomes measure will discourage preparation programs and teachers from serving high-need schools. We therefore decline to make changes to the regulations.

Changes: None.

Comments: Commenters expressed concern with labeling programs as low-performing if student data are not made available about such programs. The commenters stated that this may lead to identifying high-quality programs as low-performing. They were also concerned about transparency, and noted that it would be unfair to label any program without actual information on how that label was earned.

Discussion: We interpret the commenters' concern to be that States may not be able to report on student learning outcomes for particular teacher preparation programs because districts do not provide data on student learning outcomes, and yet still identify programs as low performing. In response, we clarify that the State is responsible for securing the information needed to report on each program's student learning outcomes. Given the public interest in program performance and the interest of school districts in having better information about the programs in which prospective employees have received their training, we are confident that each State can influence its school districts to get maximum cooperation in providing needed data.

Alternatively, to the extent that the commenter was referring to difficulties obtaining data for student learning outcomes (or other of our indicators of academic content and teaching skills) because of the small size of the teacher preparation programs, § 612.4(b)(3)(ii) provides different options for aggregation of data so the State can provide these programs with appropriate performance ratings. In this case, except for teacher preparation programs that are so small that even these aggregation methods will not permit the State to identify a performance level (see § 612.4(b)(3)(ii)(D) and § 612.4(b)(5)), all programs will have data on student learning outcomes with which to determine the program's level of performance.

Changes: None.

State and Local Concerns

Comments: Several commenters expressed concerns about their specific State laws regarding data collection as they affect data needed for student learning outcomes. Other commenters noted that some States have specific laws preventing aggregated student

achievement data from being reported for individual teachers. One commenter said that its State did not require annual teacher evaluations. Some commenters indicated that State standards should be nationally coordinated.

One commenter asked the Department to confirm that the commenters' State's ESEA flexibility waiver would meet the student learning outcome requirements for both tested and non-tested grades and subjects, and if so, given the difficulty and cost, whether the State would still be required to report disaggregated data on student growth in assessment test scores for individual teachers, programs, or entities in the SRC. Commenters also noted that LEAs could be especially burdened, with no corresponding State or Federal authority to compel LEA compliance. A commenter stated that in one city most teachers have 20 to 40 percent of their evaluations based on tests in subjects they do not teach.

Commenters urged that States be given flexibility in determining the components of data collection and reporting systems with minimal common elements. This would, as commenters indicated, ultimately delay the State's ability to make valid and reliable determinations of teacher preparation program quality. Some commenters stated that States should be required to use student learning outcomes as a factor in performance designations, but allow each State to determine how best to incorporate these outcomes into accountability systems.

Commenters noted that a plan for creating or implementing a measure of student achievement in content areas for which States do not have valid statewide achievement data was not proposed, nor was a plan proposed to pilot or fund such standardized measures.

Discussion: We agree and understand that some States may have to make changes (including legislative, regulatory, budgetary, etc.) in order to comply with the regulations. We have allowed time for these activities to take place, if necessary, by providing time for data system set-up and piloting before full State reporting is required as of October 31, 2019. We note that § 612.4(b)(4)(ii)(E) of the proposed regulations and § 612.4(b)(5)) of the final regulations expressly exempt reporting of data where doing so would violate Federal or State privacy laws or regulations. We also provide in § 612.4(c)(2) that States must periodically examine the quality of the data collection and make adjustments as necessary. So if problems arise, States need to work on ways to resolve them.

Regarding the suggestion that State standards for student learning outcomes should be nationally coordinated, States are free to coordinate. But how each State assesses a program's performance is a State decision; the HEA does not otherwise provide for such national coordination.

With respect to the comment asking whether a State's ESEA flexibility waiver would meet the student learning outcomes requirement for both tested and non-tested grades and subjects, this issue is likely no longer relevant since the enactment of the ESSA will make ESEA flexibility waivers null and void on August 1, 2016. However, in response to the commenters' question, so long as the State is implementing the evaluation systems as they committed to do in order to receive ESEA flexibility, the data it uses for student learning outcomes would most likely represent an acceptable way, among other ways, to comply with the title II reporting requirements.

We understand the comment, that LEAs would be especially burdened with no corresponding State or Federal authority to compel LEA compliance, to refer to LEA financial costs. It is unclear that LEAs would be so burdened. We believe that our cost estimates, as revised to respond to public comment, are accurate. Therefore, we also believe that States, LEAs, and IHEs will be able meet responsibilities under this reporting system without need for new funding sources. We discuss authorities related to LEA compliance in the discussion under § 612.1.

Regarding specific reporting recommendations for State flexibility in use of student learning outcomes, State must use the indicators of academic content knowledge and teaching skills identified in § 612.5(a). However, States otherwise determine for themselves how to use these indicators and other indicators and criteria they may establish to assess a program's performance. In identifying the performance level of each program, States also determine the weighting of all indicators and criteria they use to assess program performance.

Finally, we understand that all States are working to implement their responsibilities to provide results of student assessments for grades and subjects in which assessments are required under section 1111(b)(2) of the ESEA, as amended by ESSA. With respect to the comment that the Department did not propose a plan for creating or implementing a measure of student achievement in content areas for which States do not have valid statewide achievement data, the

regulations give States substantial flexibility in how they measure student achievement. Moreover, we do not agree that time to pilot such new assessments or growth calculations, or more Federal funding in this area, is needed.

Changes: None.

Permitted Exclusions From Calculation of Student Learning Outcomes

Comments: None.

Discussion: In proposing use of student learning outcomes for assessing a teacher preparation program's performance, we had intended that States be able, in their discretion, to exclude student learning outcomes associated with recent graduates who take teaching positions out of State or in private schools—just as the proposed regulations would have permitted States to do in calculating employment outcomes. Our discussion of costs associated with implementation of student learning outcomes in the NPRM (79 FR 71879) noted the proposed regulations permitted the exclusion for teachers teaching out of State. And respectful of the autonomy accorded to private schools, we never intended that States be required to obtain data on student learning outcomes regarding recent graduates teaching in those schools.

However, upon review of the definitions of the terms “student achievement in non-tested grades and subjects,” “student achievement in tested grades and subjects,” and “teacher evaluation measure” in proposed § 612.2, we realized that these definitions did not clearly authorize States to exclude student learning outcomes associated with these teachers from their calculation of a teacher preparation program's aggregate student learning outcomes. Therefore, we have revised § 612.5(a)(1) to include authority for the State to exclude data on student learning outcomes for students of novice teachers teaching out of State or in private schools from its calculation of a teacher preparation program's student learning outcomes. In doing so, as with the definitions of teacher placement rate and teacher retention rate, we have included in the regulations a requirement that the State use a consistent approach with regard to omitting or using these data in assessing and reporting on all teacher preparation programs.

Changes: We have revised section 612.5(a)(1) to provide that in calculating a teacher preparation program's aggregate student learning outcomes, at its discretion a State may exclude student learning outcomes of students taught by novice teachers teaching out

of State or in private schools, or both, provided that the State uses a consistent approach to assess and report on all of the teacher preparation programs in the State.

Employment Outcomes (34 CFR 612.5(a)(2))

Measures of Employment Outcomes

Comments: Many commenters suggested revisions to the definition of “employment outcomes.” Some commenters mentioned that the four measures included in the definition (placement rates, high-need school placement rates, retention rates, and high-need school retention rates) are not appropriate measures of a program’s success in preparing teachers. One commenter recommended that high-need school placement rates not be included as a required program measure, and that instead the Department allow States to use it at their discretion. Other commenters recommended including placement and retention data for preschool teachers in States where their statewide preschool program postsecondary training and certification is required, and the State licenses those educators.

Discussion: For several reasons, we disagree with commenters that the employment outcome measures are inappropriate measures of teacher preparation program quality. The goals of any teacher preparation program should be to provide prospective teachers with the skills and knowledge needed to pursue a teaching career, remain successfully employed as a teacher, and in doing so produce teachers who meet the needs of LEAs and their students. Therefore, the rate at which a program’s graduates become and remain employed as teachers is a critical indicator of program quality.

In addition, programs that persistently produce teachers who fail to find jobs, or, once teaching, fail to remain employed as teachers, may well not be providing the level of academic content knowledge and teaching skills that novice teachers need to succeed in the classroom. Working with their stakeholders (see § 612.4(c)), each State will determine the point at which the reported employment outcomes for a program go from the acceptable to the unacceptable, the latter indicating a problem with the quality of the program. We fully believe that these outcomes reflect another reasonable way to define an indicator of academic content knowledge and teaching skills, and that unacceptable employment outcomes show something is wrong

with the quality of preparation the teaching candidates have received.

Further, we believe that given the need for teacher preparation programs to produce teachers who are prepared to address the needs of students in high-need schools, it is reasonable and appropriate that indicators of academic content and teaching skills used to help assess a program’s performance focus particular attention on teachers in those schools. Therefore, we do not believe that States should have the option to include teacher placement rates (and teacher retention rates) for high-need schools in their SRCs.

We agree with commenters that, in States where postsecondary training and certification is required, and the State licenses those teachers, data on the placement and retention of preschool teachers should be reported. We strongly encourage States to report this information. However, we decline to require that they do so because pre-kindergarten licensure and teacher evaluation requirements vary significantly between States and among settings, and given these State and local differences in approach we believe that it is important to leave the determination of whether and how to include preschool teachers in this measure to the States.

Changes: None.

Teacher Placement Rate

Comments: One commenter recommended that the teacher placement rate account for “congruency,” which we interpret to mean whether novice teachers are teaching in the grade level, grade span, and subject area in which they were prepared. The commenter noted that teacher preparation programs that are placing teachers in out-of-field positions are not aligning with districts’ staffing needs. In addition, we understand the commenter was noting that procedures LEAs use for filling vacancies with teachers from alternative route programs need to acknowledge the congruency issue and build in a mechanism to remediate it.

Discussion: We agree that teachers should be placed in a position for which they have content knowledge and are prepared. For this reason, the proposed and final regulations define “teacher placement rate” as the percentage of recent graduates who have become novice teachers (regardless of retention) for the grade level, grade span, and subject area in which they were prepared, except, as discussed in the section titled “Alternative Route Programs,” we have revised the regulations to provide that a State is not

required to calculate a teacher placement rate for alternative route to certification programs. While we do not agree that teacher preparation programs typically place teachers in their teaching positions, programs that do not work to ensure that novice teachers obtain employment as teachers in a grade level, span, or subject area that is the same as that or which they were prepared will likely fare relatively poorly on the placement rate measure.

We disagree with the commenter’s suggestion that alternative route program participants are teaching in out-of-field positions. Employment as a teacher is generally a prerequisite to entry into alternative route programs, and the alternative route program participants are being prepared for an initial certification or licensure in the field in which they are teaching. We do not know of evidence to suggest that most participants in alternative route programs become teachers of record without first having demonstrated adequate subject-matter content knowledge in the subjects they teach.

Nonetheless, traditional route programs and alternative route programs recruit from different groups of prospective teachers and have different characteristics. It is for this reason that, both in our proposed and final regulations, States are permitted to assess the employment outcomes of traditional route programs versus alternative route programs differently, provided that the different assessments result in equivalent standards of accountability and reporting.

Changes: None.

Teacher Retention Rate

Comments: Many commenters expressed concern that the teacher retention rate measure does not consider other factors that influence retention, including induction programs, the support novice teachers receive in the classroom, and the districts’ resources. Other commenters suggested requiring each State to demand from its accredited programs a 65 percent retention rate after five years.

Some commenters also expressed concern about how the retention rate measure will be used to assess performance during the first few years of implementation. They stated that it would be unfair to rate teacher preparation programs without complete information on retention rates.

Discussion: We acknowledge that retention rates are affected by factors outside the teacher preparation program’s control. However, we believe that a teacher retention rate that is extraordinarily low, just as one that is

extraordinarily high, is an important indicator of the degree to which a teacher preparation program adequately prepares teachers to teach in the schools that hire them and thus is a useful and appropriate indicator of academic content knowledge and teaching skills that the State would use to assess the program's performance. The regulations leave to the States, in consultation with their stakeholders (see § 612.4(c)) the determination about how they calculate and then weight a program's retention rate. While we agree that programs should strive for high retention rates, and encourage States to set rigorous performance goals for their programs, we do not believe that the Department should set a specific desired rate for this indicator. Rather, we believe the States are best suited to determine how to implement and weight this measure. However, we retain the proposal to have the retention rate apply over the first three years of teaching both because we believe that having novice teachers remain in teaching for the first three years is key, and because having States continue to generate data five years out as the commenter recommended is unnecessarily burdensome.

We understand that, during the initial years of implementation, States will not have complete data on retention. We expect that States will weigh indicators for which data are unavailable during these initial implementation years in a way that is consistent and applies equivalent levels of accountability across programs. For further discussion of the reporting cycle and implementation timeline, see § 612.4(a). We also note that, as we explain in our response to comments on the definition of "teacher retention rate", under the final regulations States will report on teachers who remain in the profession in the first three consecutive years after placement.

Changes: None.

Comments: Commenters expressed concern that the categories of teachers who can be excluded from the "teacher placement rate" calculation are different from those who can be excluded from the "teacher retention rate" calculation. Commenters believed this could unfairly affect the rating of teacher preparation programs.

Discussion: We agree that differences in the categories of teachers who can be excluded from the "teacher placement rate" calculation and the "teacher retention rate" calculation should not result in an inaccurate portrayal of teacher preparation program performance on these measures. Under the proposed regulations, the categories of teachers who could be excluded from

these calculations would have been the same with two exceptions: Novice teachers who are not retained specifically and directly due to budget cuts may be excluded from the calculation of teacher retention rate only, as may recent graduates who have taken teaching positions that do not require State certification. A teacher placement rate captures whether a recent graduate has ever become a novice teacher and therefore is reliant on initial placement as a teacher of record. Retention in a teaching position has no bearing on this initial placement, and therefore allowing States to exclude teachers from the placement rate who were not retained due to budget cuts would not be appropriate. Therefore, the option to exclude this category of teachers from the retention rate calculation does not create inconsistencies between these measures.

However, permitting States to exclude from the teacher placement rate calculation, but not from the teacher retention rate calculation, recent graduates who have taken teaching positions that do not require State certification could create inconsistencies between the measures. Moreover, upon further review, we believe permitting the exclusion of this category of teachers from either calculation runs contrary to the purpose of the regulations, which is to assess the performance of programs that lead to an initial State teacher certification or licensure in a specific field. For these reasons, the option to exclude this category of teachers has been removed from the definition of "teacher placement rate" in the final regulations (see § 612.2). With this change, the differences between the categories of teachers that can be excluded from teacher placement rate and teacher retention rate will not unfairly impact the outcomes of these measures, so long as the State uses a consistent approach to assess and report on all programs in the State.

Changes: None.

Comments: Commenters stated that this the teacher retention rate measure would reflect poorly on special education teachers, who have a high turnover rate, and on the programs that prepare them. They argued that, in response to the regulations, some institutions will reduce or eliminate their special education preparation programs rather than risk low ratings.

Discussion: Novice special education teachers have chosen their area of specialization, and their teacher preparation programs trained them consistent with State requirements. The percentage of these teachers, like

teachers trained in other areas, who leave their area of specialization within their first three years of teaching, or leave teaching completely, is too high on an aggregated national basis.

We acknowledge that special education teachers face particular challenges, and that like other teachers, there are a variety of reasons—some dealing with the demands of their specialty, and some dealing with a desire for other responsibilities, or personal factors—for novice special education teachers to decide to move to other professional areas. For example, some teachers with special education training, after initial employment, may choose to work in regular education classrooms, where many children with disabilities are taught consistent with the least restrictive environment provisions of the Individuals with Disabilities Education Act. Their specialized training can be of great benefit in the regular education setting.

Under our regulations, States will determine how to apply the teacher retention indicator, and so determine in consultation with their stakeholders (see § 612.4(c)) what levels of retention would be so unreasonably low (or so unexpectedly high) to reflect on the quality of the teacher preparation program. We believe this State flexibility will incorporate consideration of the programmatic quality of special education teacher preparation and the general circumstances of employment of these teachers. Special education teachers are teachers first and foremost, and we do not believe the programs that train special education teachers should be exempted from the State's overall calculations of their teacher retention rates. Demand for teachers trained in special education is expected to remain high, and given the flexibility States have to determine what is a reasonable retention rate for novice special education teachers, we do not believe that this indicator of program quality will result in a reduction of special education preparation programs.

Changes: None.

Placement in High-Need Schools

Comments: Many commenters noted that incentivizing the placement of novice teachers in high-need schools contradicts the ESEA requirement that States work against congregating novice teachers in high-need schools. The "Excellent Educators for All"⁴⁴ initiative asks States to work to ensure

⁴⁴ Equitable Access to Excellent Educators: State Plans to Ensure Equitable Access to Excellent Educators.(2014). Retrieved from <http://www2.ed.gov/programs/titleiparta/resources.html>.

that high-need schools obtain and retain more experienced teachers. Commenters believed States would be challenged to meet the contradictory goals of the mandated rating system and the Department's other initiatives.

Discussion: The required use of teacher placement and retention rates (*i.e.*, our employment rate outcomes) are intended to provide data that confirm the extent to which those whom a teacher preparation program prepares go on to become novice teachers and remain in teaching for at least three years. Moreover, placement rates overall are particularly important, in that they provide a baseline context for evaluating a program's retention rates. Our employment outcomes include similar measures that focus on high-need schools because of the special responsibility of programs to meet the needs of those schools until such time as SEAs and LEAs truly have implemented their responsibilities under 1111(g)(1)(B) and 1112(b)(2) of the ESEA, as amended by ESSA, (corresponding to similar requirements in sections 1111(b)(8)(C) and 1112(c)(1)(L) of the ESEA, as previously amended by NCLB) to take actions to ensure that low-income children and children of color are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers.

The Department required all States to submit State Plans to Ensure Equitable Access to Excellent Educations (Educator Equity Plans) to address this requirement, and we look forward to the time when employment outcomes that focus on high-need schools are unnecessary. However, it is much too early to remove employment indicators that focus on high-need schools. For this reason, we decline to accept the commenters' recommendation that we do so because of concern that these reporting requirements are inconsistent with those under the ESEA.

We add that, just as States will establish the weights to these outcomes in assessing the level of program performance, States also may adjust their expectations for placement and retention rates for high-need schools in order to support successful implementation of their State plans.

Changes: None.

Comments: Many commenters expressed concern about placing novice teachers in high-need schools without additional support systems. Several other commenters stated that the proposed regulations would add to the problem of chronic turnover of the least experienced teachers in high-need schools.

Discussion: We agree that high-need schools face special challenges, and that teachers who are placed in high-need schools need to be prepared for those challenges so that they have a positive impact on the achievement and growth of their students. By requiring transparency in reporting of employment outcomes through disaggregated information about high-need schools, we hope that preparation programs and high-need schools and districts will work together to ensure novice teachers have the academic content knowledge and teaching skills they need when placed as well as the supports they need to stay in high-need schools.

We disagree with commenters that the regulations will lead to higher turnover rates. By requiring reporting on teacher preparation rates by program, we believe that employers will be better able to identify programs with strong track records for preparing novice teachers who stay, and succeed, in high-need schools. This information will help employers make informed hiring decisions and may ultimately help districts reduce teacher turnover rates.

Changes: None.

State Flexibility To Define and Incorporate Measures

Comments: Commenters suggested that States be able to define the specific employment information they are collecting, as well as the process for collecting it, so that they can use the systems they already have in place. Other commenters suggested that the Department require that States use employment outcomes as a factor in performance designations, but allow each State to determine how best to incorporate these outcomes into accountability systems.

Several commenters suggested additional indicators that could be used to report on employment outcomes. Specifically, commenters suggested that programs should report the demographics and outcomes of enrolled teacher candidates by race and ethnicity (graduation rate, dropout rates, placement rates for graduates, first-year evaluation scores (if available), and the percentage of teachers candidates who stay within the teaching profession for one, three, and five years). Also, commenters suggested that the Department include the use of readily-available financial data when reporting employment outcomes. Another commenter suggested that the Department collect information on how many teachers from each teacher preparation program attain an exemplary rating through the statewide

evaluation systems. Finally, one commenter suggested counting the number of times schools hire graduates from the same teacher preparation program.

Discussion: As with the other indicators, States have flexibility to determine how the employment outcome measures will be implemented and used to assess the performance of teacher preparation programs. If a State wants to adopt the recommendations in the way it implements collecting data on placement and retention rates, it certainly may do so. But we are mindful of the additional costs associated with calculating these employment measures for each teacher preparation program that would come from adopting commenters' recommendations to disaggregate their employment measures by category of teachers or to include the other categories of data they recommend.

We do not believe that further disaggregation of data as recommended will produce a sufficiently useful indicator of teacher preparation program performance to justify a requirement that all States implement one or more of these recommendations. We therefore decline to adopt them. We also do not believe additional indicators are necessary to assess the academic content knowledge and teaching skills of the novice teachers from each teacher preparation program though consistent with § 612.5(b), States are free to adopt them if they choose to do so.

Changes: None.

Employment Outcomes as a Measure of Program Performance

Comments: Commenters suggested that States be expected to report data on teacher placement, without being required to use the data in making annual program performance designations.

Several commenters noted that school districts often handle their own decisions about hiring and placement of new school teachers, which severely limits institutions' ability to place teachers in schools. Many commenters advised against using employment data in assessments of teacher preparation programs. Some stated that these data would fail to recognize the importance of teacher preparation program students' variable career paths and potential for employment in teaching-related fields. To narrowly define teacher preparation program quality in terms of a limited conception of employment for graduates is misguided and unnecessarily damaging.

Other commenters argued that the assumption underlying this proposed

measure of a relationship between program quality and teacher turnover is not supported by research, especially in high-need schools. They stated that there are too many variables that impact teacher hiring, placement, and retention to effectively connect that variable to the quality of teacher preparation programs. Examples provided include: The economy and budget cuts, layoffs that poor school districts are likely to implement, State politics, the unavailability of a position in given content area, personal choices (e.g., having a family), better paying positions, out of State positions, private school positions, military installations and military spouses, few opportunities for advancement, and geographic hiring patterns (e.g., rural versus urban hiring patterns). Some commenters also stated that edTPA, which they described as an exam that is similar to a bar exam for teaching, would be a much more direct, valid measure of a graduate's skills.

Discussion: We acknowledge that there are factors outside of a program's control that influence teacher placement rates and teacher retention rates. As commenters note, teacher preparation program graduates (or alternative route program participants if a State chooses to look at them rather than program graduates) may decide to enter or leave the profession due to family considerations, working conditions at their school, or other reasons that do not necessarily reflect upon the quality of their teacher preparation program or the level of content knowledge and teaching skills of the program's graduates.

In applying these employment outcome measures, it would be absurd to assume that States will treat a rate that is below 100 percent as a poor reflection on the quality of the teacher preparation program. Rather, in applying these measures States may determine what placement rates and retention rates would be so low (or so high, if they choose to identify exceptionally performing programs) as to speak to the quality of the program itself.

However, while factors like those commenters identify affect employment outcomes, we believe that the primary goal of teacher preparation programs should be to produce graduates who successfully become classroom teachers and stay in teaching at least several years. We believe that high placement and retention rates are indicators that a teacher preparation program's graduates (or an alternative route program's participants if a State chooses to look at them rather than program graduates) have the requisite content knowledge and teaching skills to demonstrate

sufficient competency to find a job, earn positive reviews, and choose to stay in the profession. This view is shared by States like North Carolina, Louisiana, and Tennessee, as well as CAEP, which require reporting on similar outcomes for teacher preparation programs.

Commenters accurately point out that teachers in low-performing schools with high concentrations of students of color have significantly higher rates of turnover. Research from New York State confirms this finding, but also shows that first-year teachers who leave a school are, on average, significantly less effective than those who stay.⁴⁵ This finding, along with other similar findings,⁴⁶ indicates that teacher retention and teaching skills are positively associated with one another. Another study found that when given a choice between teachers who transfer schools, schools tend to choose the teachers with greater impact on student outcomes,⁴⁷ suggesting that hiring decisions are also indications of teacher skills and content knowledge. Research studies⁴⁸ and available State data⁴⁹ on teacher preparation programs placement and retention rates also show that there can be large differences in employment outcomes across programs within a State. While these rates are no doubt influenced by many factors, the Department believes that they are in part a reflection of the quality of the program, because they signal a program's ability to produce graduates that schools and districts deem to be qualified.

The use of employment outcomes as indicators of the performance of a

teacher preparation program also reflects the relationship between teacher retention rates and student outcomes. At the school level, high teacher turnover can have multiple negative effects on student learning. When a teacher leaves a school, it is more likely that the vacancy will be filled by a less-experienced and, on average, less-effective teacher, which will lower the achievement of students in the school. In addition to this effect on the composition of a school's teacher workforce, the findings of Ronfeldt, *et al.* suggest that disruption from teacher turnover has an additional negative effect on the school as a whole, in part, by lowering the effectiveness of the teachers who remain in the school.⁵⁰

Thus, we believe that employment outcomes, taken together, serve not only as reasonable indicators of academic content knowledge and teaching skill, but also as potentially important incentives for programs and States to focus on a program's ability to produce graduates with the skills and preparation to teach for many years. Placement rates overall and in high-need schools specifically, are particularly important, in that they provide a baseline context for evaluating a program's retention rates. In an extreme example, a program may have 100 graduates, but if only one graduate who actually secures employment as a teacher, and continues to teach, that school would have a retention rate of 100 percent. Plainly, such a retention rate does not provide a meaningful or complete assessment of the program's impact on teacher retention rate, and thus on this indicator of program quality. Similarly, two programs may each produce 100 teachers, but one program only places teachers in high-need schools, while the other places no teachers in high-need schools. Even if the programs produced graduates of the exact same quality, the program that serves high-need schools would be likely to have lower retention rates, due to the challenges described in comments and above.

Finally, we reiterate that States have flexibility to determine how employment outcomes should be weighted, so that they may match their metrics to their individual needs and conditions. In regard to using other available measures of teaching ability and academic content knowledge, like edTPA, we believe that, taken together, outcome-based measures that we require

⁴⁵ Boyd, D., Grossman, P., Lankford, H., & Loeb, S. (2008). Who Leaves? Teacher Attrition and Student Achievement? (Working Paper No. 14022). Retrieved from National Bureau of Economic Research.

⁴⁶ Goldhaber, D., Gross, P., & Player, D. (2007). Are public schools really losing their "best"? Assessing the career transitions of teachers and their implications for the quality of the teacher workforce (Working Paper No. 12).

⁴⁷ Boyd, D., Lankford, H., Loeb, S., Ronfeldt, M., & Wyckoff, J. (2011). The role of teacher quality in retention and hiring: Using applications to transfer to uncover preferences of teachers and schools. *Journal of Policy Analysis and Management*, 30(1), 88–110.

⁴⁸ Kane, T., Rockoff, J., & Staiger, D. (2008). What does certification tell us about teacher effectiveness? Evidence from New York City. *Economics of Education Review*, 27(6), 615–631–615–631.

⁴⁹ See, for example information on these indicators reported by Tennessee and North Carolina: Report Card on the Effectiveness of Teacher Training Programs, Tennessee 2014 Report Card. (n.d.). Retrieved November 30, 2015, from www.tn.gov/thec/Divisions/AcademicAffairs/rttt/report_card/2014/report_card/14report_card.shtml; UNC Educator Quality Dashboard. (n.d.). Retrieved from <http://tqdashboard.northcarolina.edu/performance-employment/>.

⁵⁰ Ronfeldt, M., Loeb, S., & Wyckoff, J. (2013). How Teacher Turnover Harms Student Achievement. *American Education Research Journal*, 50(1), 4–36.

(student learning outcomes, employment outcomes, and survey outcomes) are the most direct measures of academic content knowledge and teaching skills. Placement and retention rates reflect the experiences of program's recent graduates and novice teachers over the course of three to six years (depending on when recent graduates become novice teachers), which cannot be captured by other measures. We acknowledge that States may wish to include additional indicators, such as student survey results, to assess teacher preparation program performance. Section 612.5(b) permits States to do so. However, we decline to require that States use additional or other indicators like those suggested in place of employment outcomes, because we strongly believe they are less direct measures of academic content knowledge and teaching skills.

Changes: None.

Validity and Reliability

Comments: Several commenters indicated that the teacher retention data that States would need to collect for each program do not meet the standards for being valid or reliable. They stated that data on program graduates will be incomplete because States can exclude teachers who move across State lines, teach in private schools or in positions which do not require certification, or who join the military or go to graduate school. Commenters further expressed concern over the numerous requests for additional data regarding persistence, academic achievement, and job placement that are currently beyond the reach of most educator preparation programs.

Discussion: As we have previously stated, we intend the use of all indicators of academic content knowledge and teaching skill to produce information about the performance-level of each teacher preparation program that, speaking broadly, is valid and reliable. See, generally, our discussion of the issue in response to public comment on *Indicators a State Must Use to Report on Teacher Preparation Programs in the State Report Card (34 CFR 612.5(a))*.

It is clear from the comments we received that there is not an outright consensus on using employment outcomes to measure teacher preparation programs; however, we strongly believe that the inclusion of employment outcomes with other measures contributes to States' abilities to make valid and reliable decisions about program performance. Under the regulations, States will work with their

stakeholders (see § 612.4(c)) to establish methods for evaluating the quality of data related to a program's outcome measures, and all other indicators, to ensure that the reported data are fair and equitable. As we discussed in the NPRM, in doing so, the State should use this process to ensure the reliability, validity, integrity, and accuracy of all data reported about the performance of teacher preparation programs. We recognize the burden that reporting on employment outcomes may place on individual programs, and for this reason, we suggest, but do not require, that States examine their capacity, within their longitudinal data systems, to track employment outcomes because we believe this will reduce costs for IHEs and increase efficiency of data collection.

We recognize that program graduates may not end up teaching in the same State as their teacher preparation program for a variety of reasons and suggest, but do not require, that States create inter-State partnerships to better track employment outcomes of program completers as well as agreements that allow them to track military service, graduate school enrollment, and employment as teacher in a private school. But we do not believe that the exclusion of these recent graduates, or those who go on to teach in private schools, jeopardizes reasonable use of this indicator of teacher preparation program performance. As noted, previously, we have revised the regulations so that States may not exclude recent graduates employed in positions which do not require certification from their calculations of employment outcomes. Working with their stakeholders (see § 612.4(c)) States will be able to determine how best to apply the retention rate data that they have.

Finally, we understand that many teacher preparation programs do not currently collect data on factors like job placement, how long their graduates who become teachers stay in the profession, and the gains in academic achievement that are associated with their graduates. However, collecting this information is not beyond those programs' capacity. Moreover, the regulations make the State responsible for ensuring that data needed for each indicator to assess program performance are secured and used. How they will do so would be a subject for State discussion with its consultative group.

Changes: None.

Data Collection and Reporting Concerns

Comments: Commenters recommended that placement-rate data

be collected beyond the first year after graduation and across State boundaries. Another commenter noted that a State would need to know which "novice teachers" or "recent graduates" who attended teacher preparation programs in their State are not actually teaching in their State, and it is unclear how a State would be able to get this information. Several commenters further stated that States would need information about program graduates who teach in private schools that is not publically available and may violate privacy laws to obtain.

Commenters were concerned about how often data will be updated by the Department. They stated that, due to teachers changing schools mid-year, data will be outdated and not helpful to the consumer. Several commenters suggested that a national database would need to be in place for accurate data collection so institutions would be able to track graduates across State boundaries. Two commenters noted that it will be difficult to follow graduates over several years and collect accurate data to address all of the areas relevant to a program's retention rate, and that therefore reported rates would reflect a great deal of missing data.

Another commenter suggested that the Department provide support for the development and implementation of data systems that will allow States to safely and securely share employment, placement, and retention data.

Discussion: We note first that, due to the definition of the terms "teacher placement rate" and "recent graduate" (see § 612.2), placement rate data is collected on individuals who have met the requirements of program in any of the three title II reporting years preceding the current reporting year.

In order to decrease the costs associated with calculating teacher placement and teacher retention rates and to better focus the data collection, our proposed and final definitions of teacher placement rate and teacher retention rate in § 612.2 permit States to exclude certain categories of novice teachers from their calculations for their teacher preparation programs, provided that each State uses a consistent approach to assess and report on all of the teacher preparation programs in the State. As we have already noted, these categories include teachers who teach in other States, teach in private schools, are not retained specifically and directly due to budget cuts, or join the military or enroll in graduate school. While we encourage States to work to capture these data to make the placement and retention rates for each program as robust as possible, we understand that

current practicalities may affect their ability to do so for one or more of these categories of teachers. But we strongly believe that, except in rare circumstances, States will have enough data on employment outcomes for each program, based on the numbers of recent graduates who take teaching positions in the State, to use as an indicator of the program's performance.

To address confidentiality concerns, § 612.4(b)(5) expressly exempts reporting of data where doing so would violate Federal or State privacy laws or regulations.

The regulations do not require States to submit documentation with the SRCs that supports their data collections; they only must submit the ultimate calculation for each program's indicator (and its weighting). However, States may not omit program graduates (or participants in alternative route programs if a State chooses to look at participants rather than program graduates) from any of the calculations of employment or survey outcomes indicators without being able to verify that these individuals are in the groups that the regulators permit States to omit.

Some commenters recommended that the Department maintain a national database, while others seemed to think that we plan to maintain such a database. States must submit their SRCs to the Department annually, and the Department intends to make these reports and the data they include, like SRCs that States annually submitted in prior years, publicly available. The Department has no other plans for activities relevant to a national database.

Commenters were concerned about difficulties in following graduates for the three-year period proposed in the NPRM. As discussed in response to comment on the "teacher retention rate" definition in § 612.2, we have modified the definition of "teacher retention rate" so that States will be reporting on the first three years a teacher is in the classroom rather than three out of the first five years. We believe this change addresses the commenters' concerns.

As we interpret the comment, one commenter suggested we provide support for more robust data systems so that States have access to the employment data of teachers who move to other States. We have technical assistance resources dedicated to helping States collect and use longitudinal data, including the Statewide Longitudinal Data System's Education Data Technical Assistance Program and the Privacy Technical Assistance Center, which focuses on the privacy and security of student data. We

will look into whether these resources may be able to help address this matter.

Changes: None.

Alternative Route Programs

Comments: Commenters stated that the calculation of placement and retention rates for alternative route teacher preparation programs should be different from those for traditional route teacher preparation programs. Others asked that the regulations ensure the use of multiple measures by States in assessing traditional and alternative route programs. Many commenters stated that the proposed regulations give advantages to alternative route programs, as programs that train teachers on the job get significant advantages by being allowed to count all of their participants as employed while they are still learning to teach, virtually ensuring a very high placement rate for those programs. Other commenters suggested that the common starting point for both alternative and traditional route programs should be the point at which a candidate has the opportunity to become a teacher of record.

As an alternative, commenters suggested that the Department alter the definition of "new teacher" so that both traditional and alternative route teacher candidates start on equal ground. For example, the definition might include "after all coursework is completed," "at the point a teacher is placed in the classroom," or "at the moment a teacher becomes a teacher of record." Commenters recommended that teacher retention rate should be more in line with CAEP standards, which do not differentiate accountability for alternate and traditional route teacher preparation programs.

Many commenters were concerned about the ability of States to weight employment outcomes differently for alternative and traditional route programs, thus creating unfair comparisons among States or programs in different States while providing the illusion of fair comparisons by using the same metrics. One commenter was concerned about a teacher preparation program's ability to place candidates in fields where a degree in a specific discipline is needed, as those jobs will go to those with the discipline degree and not to a teacher preparation program degree, thus giving teachers from alternative route programs an advantage. Others stated that demographics may impact whether a student enrolls in a traditional or an alternative route program, so comparing the two types of programs in any way is not appropriate.

Discussion: We agree that employment outcomes could vary based solely on the type, rather than the quality, of a teacher preparation program. While there is great variability both among traditional route programs and among alternative route programs, those two types of programs have characteristics that are generally very different from each other. We agree with commenters that, due to the fundamental characteristics of alternative certification programs (in particular the likelihood that all participants will be employed as teachers of record while completing coursework), the reporting of teacher placement rate data of individuals who participated in such programs will inevitably result in 100 percent placement rate. However, creation of a different methodology for calculating the teacher placement rate solely for alternative route programs would be unnecessarily complex and potentially confusing for States as they implement these regulations and for the public as they examine the data. Accordingly, we have removed the requirement that States report and assess the teacher placement rate of alternative route programs from the final regulations. States may, at their discretion, continue to include teacher placement rate for alternative certification programs in their reporting system if they determine that this information is meaningful and deserves weight. However, they are not required to do so by these final regulations.

For reasons discussed in the *Meaningful Differentiations in Teacher Preparation Program Performance* section of this preamble, we have not removed the requirement that States report the teacher placement rate in high-need schools for alternative route programs. If a teacher is employed as a teacher of record in a high-need school prior to program completion, that teacher will be considered to have been placed when the State calculates and reports a teacher placement rate for high-need schools. Unlike teacher placement rate generally, the teacher placement rate in high-need schools can be used to meaningfully differentiate between programs of varying quality.

Recognizing both that (a) the differences in the characteristics of traditional and alternative route programs may create differences between teacher placement rate in high-need schools and (b) our removal of the requirement to include teacher placement rate for alternative certification programs creates a different number of required indicators for Employment Outcomes between the two

program types, we have revised § 612.5(a)(2) to clarify that (1) in their overall assessment of program performance States may assess employment outcomes for these programs differently, and (2) States may do so provided that differences in assessments and the reasons for those differences are transparent and that assessments result in equivalent levels of accountability and reporting irrespective of the type of program.

We believe States are best suited to analyze their traditional and alternative route programs and determine how best to apply employment outcomes to assess the overall performance of these programs. As such, to further promote transparency and fair treatment, we have revised section V of the SRC to include the need for each State to describe the rationale for how the State is treating the employment outcomes differently, provided it has not chosen to add a measure of placement rate for alternative route programs and does in fact have different bases for accountability.

We also believe that, as we had proposed, States should apply equivalent standards of accountability in how they treat employment outcomes for traditional programs and alternative route programs, and suggest a few approaches States might consider for achieving such equivalency.

For example, a State might devise a system with five areas in which a teacher preparation program must have satisfactory outcomes in order to be considered not low-performing or at-risk of being low-performing. For the employment outcomes measure (and leaving aside the need for employment outcomes for high-need schools), a State might determine that traditional route programs must have a teacher placement rate of at least 80 percent and a second-year teacher retention rate of at least 70 percent to be considered as having satisfactory employment outcomes. The State may, in consultation with stakeholders, determine that a second-year retention rate of 85 percent for alternative certification programs results in an equivalent level of accountability for those programs, given that almost all participants in such programs in the State are placed and retained for some period of time during their program.

As another example, a State might establish a numerical scale wherein the employment outcomes for all teacher preparation programs in the State account for 20 percent. A State might then determine that teacher placement (overall and at high-needs schools) and teacher retention (overall and at high-

needs schools) outcomes are weighted equally, say at 10 percent each, for all traditional route programs, but weight the placement rate in high-need schools at 10 percent and retention rate (overall and at high-needs schools) at 10 percent for alternative route programs.

We also recognize that some alternative route programs are specifically designed to recruit high-quality participants who may be committed to teach only for a few years. Many also recruit participants who in college had academic majors in fields similar to what they will teach. Since a significant aspect of our indicators of academic content knowledge and teaching skills focus on the success of novice teachers regardless of the nature of their teacher preparation program, we do not believe we should establish a one-size-fits-all rule here. Rather, we think that States are in a better position to determine how the employment outcomes should best be used to help assess the performance of alternative route and traditional route programs.

We agree that use of multiple measures of program performance is important. We reiterate that the regulations require that, in reporting the performance of all programs, both traditional and alternative route, States must use the four indicators of academic content knowledge and teaching skills the regulations identify in § 612.5(a), including employment outcomes—the teacher placement rate (excepting the requirement here for alternative route programs), teacher placement rate in high-need schools, teacher retention rate, and teacher retention rate in high-need schools—in addition to any indicators of academic content knowledge and teaching skills and other criteria they may establish on their own.

However, we do not know of any inherent differences between traditional route programs and alternative route programs that should require different treatment of the other required indicators—student learning outcomes, survey outcomes, and the basic characteristics of the program addressed in § 612.5(a)(4). Nor do we see any reason why any differences in the type of individuals that traditional route programs and alternative route programs enroll should mean that the program's student learning outcomes should be assessed differently.

Finally, while some commenters argued about the relative advantage of alternative route or traditional route programs in reporting on employment outcomes, we reiterate that neither the regulations nor the SRCs pit programs against each other. Each State determines what teacher preparation

programs are and are not low-performing or at-risk of being low-performing (as well as in any other category of performance it may establish). Each State then reports the data that reflect the indicators and criteria used to make this determination, and identifies those programs that are low-performing or at-risk of being low-performing. Of course, any differences in how employment outcomes are applied to traditional route and alternative route programs would need to result in equivalent levels of accountability and reporting (see § 612.5(a)(2)(B)). But the issue for each State is identifying each program's level of performance relative to the level of expectations the State established—not relative to levels of performance or results for indicators or criteria that apply to other programs.

Changes: We have revised § 612.5(a)(2)(iii) to clarify that in their overall assessment of program performance States may assess employment outcomes for traditional route programs and programs provided through alternative routes differently provided that doing results in equivalent levels of accountability.

We have also added a new § 612.5(a)(2)(v) to provide that a State is not required to calculate a teacher placement rate under paragraph (a)(2)(i)(A) of that section for alternative route to certification programs.

Teacher Preparation Programs Provided Through Distance Education

Comments: None.

Discussion: In reviewing the proposed regulations, we recognized that, as with alternative route programs, teacher preparation programs provided through distance education may pose unique challenges to States in calculating employment outcomes under § 612.5(a)(2). Specifically, because such programs may operate across State lines, an individual State may be unable to accurately determine the total number of recent graduates from any given program and only a subset of that total would be, in theory, preparing to teach in that State. For example, a teacher preparation entity may be physically located in State A and operate a teacher preparation program provided through distance education in both State A and State B. While the teacher preparation entity is required to submit an IRC to State A, which would include the total number of recent graduates from their program, only a subset of that total number would be residing in or preparing to teach in State A. Therefore, when State A calculates the teacher placement rate for that program, it

would generate an artificially low rate. In addition, State B would face the same issue if it had ready access to the total number of recent graduates (which it would not as the program would not be required to submit an IRC to State B). Any teacher placement rate that State B attempts to calculate for this, or any other, teacher preparation program provided through distance education would be artificially low as recent graduates who did not reside in State B, did not enroll in a teacher preparation program in State B, and never intended to seek initial certification or licensure in State B would be included in the denominator of the teacher placement rate calculation.

Recognizing these types of issues, the Department has determined that it is appropriate to create an alternative method for States to calculate employment outcomes for teacher preparation programs provided through distance education. Specifically, we have revised the definition of teacher placement rate to allow States, in calculating teacher placement rate for teacher preparation programs provided through distance education, to use the total number of recent graduates who have obtained initial certification or licensure in the State during the three preceding title II reporting years as the denominator in their calculation instead of the total number of recent graduates. Additionally, we believe it is appropriate to give States greater flexibility in assessing these outcomes, and have added a new § 612.5(a)(2)(iv) which allows States to assess teacher placement rates differently for teacher preparation programs provided through distance education provided that the differences in assessment are transparent and result in similar levels of accountability for all teacher preparation programs.

Changes: We have added § 612.5(a)(2)(iv), which allows States to assess teacher placement rates differently for teacher preparation programs provided through distance education so long as the differences in assessment are transparent and result in similar levels of accountability.

Survey Outcomes (34 CFR 612.5(a)(3))

Comments: Several commenters agreed that there is value in using surveys of teacher preparation program graduates and the administrators who employ and supervise them to evaluate the programs, with some commenters noting that such surveys are already in place. Some commenters expressed concerns about the use of survey data as part of a rating system with high-stakes consequences for teacher preparation

programs. Some commenters felt that States should have discretion about how or even whether to incorporate survey outcomes into an accountability system. Other commenters suggested making surveys one of a number of options that States could elect to include in their systems for evaluating the quality of teacher preparation programs. Still other commenters felt that, because surveys are currently in place for the evaluation of teacher preparation programs (for example, through State, accrediting agency, and institutional requirements), Federal regulations requiring the use of survey outcomes for this purpose would be either duplicative or add unnecessary burden if they differ from what currently exists. One commenter stated that Massachusetts is currently building valid and reliable surveys of novice teachers, recent graduates, employers, and supervising practitioners on educator preparation, and this work exceeds the expectation of the proposed rules. However, the commenter also was concerned about the reliability, validity, and feasibility of using survey outcomes as an independent measure for assessing teacher preparation program performance. The commenter felt that the proposed regulations do not specify how States would report survey results in a way that captures both qualitative and quantitative data. The commenter expressed doubt that aggregating survey data into a single data point for reporting purposes would convey valuable information, and stated that doing so would diminish the usefulness of the survey data and could lead to distorted conclusions.

In addition, commenters recommended allowing institutions themselves to conduct and report annual survey data for teacher graduates and employers, noting that a number of institutions currently conduct well-honed, rigorous surveys of teacher preparation program graduates and their employers. Commenters were concerned with the addition of a uniform State-level survey for assessing teacher preparation programs, stating that it is not possible to obtain high individual response rates for two surveys addressing the same area. Commenters contended that, as a result, the extensive longitudinal survey databases established by some of the best teacher education programs in the Nation will be at-risk, resulting in the potential loss of the baseline data, the annual data, and the continuous improvement systems associated with these surveys despite years of investment in them and substantial demonstrated benefits.

Some commenters noted that it is hard to predict how reliable the teacher

and employer surveys required by the regulations would be as an indicator of teacher preparation program quality, since the proposed regulations do not specify how these surveys would be developed or whether they would be the same across the State or States. In addition, the commenters noted that it is hard to predict how reliable the surveys may be in capturing teacher and employer perceptions of how adequately prepared teachers are since these surveys do not exist in most places and would have to be created. Commenters also stated that survey data will need to be standardized for all of a State's institutions, which will likely result in a significant cost to States.

Some commenters stated that, in lieu of surveys, States should be allowed to create preparation program-school system partnerships that provide for joint design and administration of the preparation program. They claimed when local school systems and preparation programs jointly design and oversee the preparation program, surveys are unnecessary because the partnership creates one preparation program entity that is responsible for the quality of preparation and satisfaction of district and school leaders.

Discussion: As we stressed in the NPRM, many new teachers report entering the profession feeling unprepared for classroom realities. Since teacher preparation programs have responsibility for preparing teachers for these classroom realities, we believe that asking novice teachers whether they feel prepared to teach, and asking those who supervise them whether they feel those novice teachers are prepared to teach, generate results that are necessary components in any State's process of assessing the level of a teacher preparation program's performance. Moreover, while all States do not have experience employing surveys to determine program effectiveness, we believe that their use for this purpose has been well established. As noted in the NPRM, two major national organizations focused on teacher preparation and others in the higher education world are now incorporating this kind of survey data as an indicator of program quality (see 79 FR 71840).

We share the belief of these organizations that a novice teacher's perception, and that of his or her employer, of the teacher's readiness and capability during the first year teaching are key indicators of that individual's academic knowledge and teaching skills as well as whether his or her preparation program is training teachers

well. In addition, aside from wanting to ensure that what States report about each program's level of performance is reasonable, a major byproduct of the regulations is that they can ensure that States have accurate information on the quality of teacher preparation programs so that they and the programs can make improvements where needed and recognize excellence where it exists.

Regarding commenters concerns about the validity and reliability of the use of survey results to help assess program performance, we first reference our general discussion of the issue in response to public comment on *Indicators a State Must Use to Report on Teacher Preparation Programs in the State Report Card* (34 CFR 612.5(a)).

Beyond this, it plainly is important that States develop procedures to enable teachers' and employers' perceptions to be appropriately used and have the desired impacts, and at the same time to enable States to use survey results in ways that treat all programs fairly. To do so, we strongly encourage States to standardize their use of surveys so that for novice teachers who are similarly situated, they seek common information from them and their employers. We are confident that, in consultation with key stakeholders as provided for in § 612.4(c)(1), States will be able to develop a standardized, unbiased, and reliable set of survey questions, or ensure that IHE surveys meet the same standard. This goal would be very difficult to achieve, however, if States relied on existing surveys (unless modified appropriately) whose questions vary in content and thus solicit different information and responses. Of course, it is likely that many strong surveys already exist and are in use, and we encourage States to consider using such an existing survey so long as it comports with § 612.5(a)(3). Where a State finds an existing survey of novice teachers and their employers to be adequate, doing so will avoid the cost and time of preparing another, and to the extent possible, prevent the need for teachers and employers to complete more than one survey, which commenters reasonably would like to avoid. Concerns about the cost and burden of implementing teacher and employer surveys are discussed further with the next set of comments on this section.

We note that States have the discretion to determine how they will publicly post the results of surveys and how they will aggregate the results associated with teachers from each program for use as an indicator of that program's performance. We encourage States to report survey results

disaggregated by question (as is done, for example, by Ohio⁵¹ and North Carolina⁵²), as we believe this information would be particularly useful for prospective teachers in evaluating the strengths of different teacher preparation programs. At some point, however, States must identify any programs that are low-performing or at-risk of being low-performing, and to accomplish this they will need to aggregate quantitative and qualitative survey responses in some way, in a method developed in consultation with key stakeholders as provided for in § 612.4(c)(1).

Like those who commented, we believe that partnerships between teacher preparation programs and local school systems have great value in improving the transition of individuals whom teacher preparation programs train to the classroom and a novice teacher's overall effectiveness. However, these partnerships cannot replace survey results as an indicator of the program's performance.

Changes: None.

Comments: Commenters suggested that the Department consider options for reducing the cost and burden of implementation, such as clarifying that States would not have to survey 100 percent of novice teachers or permitting States to conduct surveys less frequently than every year.

Commenters stated that, if used as expected for comparability purposes, the survey would likely need to be designed by and conducted through a third-party agency with professional credentials in survey design and survey administration. They stated that sampling errors and various forms of bias can easily skew survey results and the survey would need to be managed by a professional third-party group, which would likely be a significant cost to States.

One commenter recommended that a national training and technical assistance center be established to build data capacity, consistency, and quality among States and educator preparation providers to support scalable continuous improvement and program quality in teacher preparation. In support of this recommendation, the commenter, an accreditor of education

preparation providers, stated that, based on its analysis of its first annual collection of outcome data from education preparation providers, and its follow-up survey of education preparation providers, the availability of survey outcomes data differs by survey type. The commenter noted that while 714 teacher preparation program providers reported that they have access to completer survey data, 250 providers reported that they did not have access. In addition, the commenter noted that teacher preparation program providers indicated that there were many challenges in reporting employment status, including State data systems as well as programs that export completers across the nation or internationally.

Discussion: To obtain the most comprehensive feedback possible, it is important for States to survey all novice teachers who are employed as teachers in their first year of teaching and their employers. This is because feedback from novice teachers is one indicator of how successfully a preparation program imparts knowledge of content and academic skills, and survey results from only a sample may introduce unnecessary opportunities for error and increased cost and burden. There is no established n-size at which point a sample is guaranteed to be representative, but rather, statistical calculations must be made to verify that the sample is representative of the characteristics of program completers or participants. While drawing a larger sample often increases the likelihood that it will be representative, we believe that for nearly all programs, a representative sample will not be substantially smaller than the total population of completers. Therefore, we do not believe that there is a meaningful advantage to undertaking the analysis required to draw a representative sample. Furthermore, we believe that any potential advantage does not outweigh the potential for error that could be introduced by States or programs that unwittingly draw a biased sample, or report that their sample is representative, when in fact it is not. As with student learning outcomes and employment outcomes, we have clarified in § 612.5(a)(3)(ii) that a State may exclude from its calculations of a program's survey outcomes those survey outcomes for all novice teachers who have taken teaching positions in private schools so long as the State uses a consistent approach to assess and report on all of the teacher preparation programs in the State.

We note that in ensuring that the required surveys are reasonable and appropriate, States have some control

⁵¹ See, for example: 2013 Educator Preparation Performance Report Adolescence to Young Adult (7–12) Integrated Mathematics Ohio State University. (2013). Retrieved from http://regents.ohio.gov/educator-accountability/performance-report/2013/OhioStateUniversity/OHSU_IntegratedMathematics.pdf.

⁵² See UNC Educator Quality Dashboard. Retrieved from <http://tqdashboard.northcarolina.edu/performance-employment/>.

over the cost of, and the time necessary for, implementing the surveys. Through consultation with their stakeholders (see § 612.4(c)), they determine the number and type of questions in each survey, and the method of dissemination and collection. However, we believe that it is important that teacher and employer surveys be conducted at least annually. Section 207(a) of the HEA requires that States annually identify teacher preparation programs that are low-performing or at-risk of being low-performing. To implement this requirement, we strongly believe that States need to use data from the year being evaluated to identify those programs. If data from past years were used for annual evaluations, it would impede low-performing programs from seeing the benefits of their improvement, tend to enable deteriorating programs to rest on their laurels, and prevent prospective teachers and employers and the public at large from seeing the program's actual level of performance. Moreover, because the regulations require these surveys only of novice teachers in their first year of teaching, the commenter's proposal to collect survey outcomes less than annually would mean that entire cohorts of graduates would not be providing their assessment of the quality of their preparation program.

In considering the comment, we realized that while we estimated costs of reporting all indicators of academic content knowledge and teaching skills, including survey outcomes, on an annual basis, the regulations did not adequately clarify the need to collect and report data related to each indicator annually. Therefore, we have revised § 612.4(b)(2)(i) to require that data for each indicator be provided annually for the most recent title II reporting year.

Further discussion regarding the cost and burden of implementing teacher and employer surveys can be found in the *Discussion of Costs, Benefits, and Transfers* in the RIA section of this document.

The regulations do not prescribe any particular method for obtaining the completed surveys, and States may certainly work with their teacher preparation programs and teacher preparation entities to implement effective ways to obtain survey results. Beyond this, we expect that States will seek and employ the assistance that they need to develop, implement, and manage teacher and employer surveys as they see fit. We expect that States will ensure the validity and reliability of survey outcomes—including how to address responder bias—when they establish their procedures for assessing

and reporting the performance of each teacher preparation program with a representative group of stakeholders, as is required under § 612.4(c)(1)(i). The regulations do not specify the process States must use to develop, implement, or manage their employer surveys, so whether they choose to use third-party entities to help them do so is up to them.

Finally, we believe it is important for the Department to work with States and teacher preparation programs across the nation to improve those programs, and we look forward to engaging in continuing dialogue about how this can be done and what the appropriate role of the Department should be. However, the commenters' request for a national training and technical assistance center to support scalable continuous improvement and to improve program quality is outside the scope of this regulation—which is focused on the States' use of indicators of academic content knowledge and teaching skills in their processes of identifying those programs that are low-performing, or at-risk of being low-performing, and other matters related to reporting under the title II reporting system.

Changes: We have added § 612.5(a)(3)(ii) to clarify that a State may exclude from its calculations of a program's survey outcomes those for novice teachers who take teaching positions in private schools so long as the State uses a consistent approach to assess and report on all of the teacher preparation programs in the State. In addition, we have revised 612.4(b)(2)(i) to provide that data for each of the indicators identified in § 612.5 is to be for the most recent title II reporting year.

Comments: Commenters also expressed specific concerns about response bias on surveys, such as the belief that teacher surveys often end up providing information about the personal likes or dislikes of the respondent that can be attributed to issues not related to program effectiveness. Commenters stated that surveys can be useful tools for the evaluation of programs and methods, but believed the use of surveys in a ratings scheme is highly problematic given how susceptible they are to what some commenters referred to as “political manipulation.” In addition, commenters stated that surveys of employer satisfaction may be substantially biased by the relationship of school principals to the teacher preparation program. Commenters felt that principals who are graduates of programs at specific institutions are likely to have a positive bias toward teachers they hire from those

institutions. Commenters also believed that teacher preparation programs unaffiliated with the educational leadership at the school will be disadvantaged by comparison.

Commenters also felt that two of our suggestions in the NPRM to ensure completion of surveys—that States consider using commercially available survey software or that teachers be required to complete a survey before they can access their class rosters—raise tremendous questions about the security of student data and the sharing of identifying information with commercial entities.

Discussion: We expect that States will ensure the validity and reliability of survey outcomes, including how to address responder bias and avoid “political manipulation” and like problems when they establish their procedures for assessing and reporting the performance of each teacher preparation program with a representative group of stakeholders, as is required under § 612.4(c)(1)(i).

While it may be true that responder bias could impact any survey data, we expect that the variety and number of responses from novice teachers employed at different schools and within different school districts will ensure that such bias will not substantially affect overall survey results.

There is no reason student data should ever be captured in any survey results, even if commercially available software is used or teachers are required to complete a survey before they can access and verify their class rosters. Commenters did not identify any particular concerns related to State or Federal privacy laws, and we do not understand what they might be. That being said, we fully expect States will design their survey procedures in keeping with requirements of any applicable privacy laws.

Changes: None.

Comments: Some commenters expressed concerns with the effect that a low response rate would have on the use of survey data as an indicator of teacher preparation program quality. Commenters noted that obtaining responses to teacher and employer surveys can be quite burdensome due to the difficulty in tracking graduates and identifying their employers. Moreover, commenters stated that obtaining their responses is frequently unsuccessful. Some commenters noted that, even with aggressive follow-up, it would be difficult to obtain a sufficient number of responses to warrant using them in high-stakes decision making about program quality. Some commenters felt

that the regulations should offer alternatives or otherwise address what happens if an institution is unable to secure sufficient survey responses.

One commenter shared that, since 2007, the Illinois Association of Deans of Public Colleges of Education has conducted graduate surveys of new teachers from the twelve Illinois public universities, by mailing surveys to new teachers and their employers. The response rate for new teachers has been extremely low (44.2 percent for the 2012 survey and 22.6 percent for the 2013 survey). The supervisor response has been higher, but still insufficient, according to the commenter, for the purpose of rating programs (65.3 percent for the 2012 survey and 40.5 percent for the 2013 survey). In addition, the commenter stated that some data from these surveys indicate differences in the responses provided by new teachers and their supervisors. The commenter felt that the low response rate is compounded when trying to find matched pairs of teachers and supervisors. Using results from an institution's new teacher survey data, the commenter was only able to identify 29 out of 104 possible matched pairs in 2012 and 11 out of 106 possible matched pairs in 2013.

One commenter from an IHE stated that the institution's return rate on graduate surveys over the past 24 years has been 10 to 24 percent, which they stated is in line with national response rates. While the institution's last survey of 50 school principals had a 50 percent return rate, the commenter noted that her institution only surveys those school divisions which they know regularly hire its graduates because it does not have a source from which it can obtain actual employment information for all graduates. According to the commenter, a statewide process that better ensures that all school administrators provide feedback would be very helpful, but could also be very burdensome for the schools.

Another commenter noted that the response rate from the institution's graduates increased significantly when the questionnaire went out via email, rather than through the United States Postal Service; however, the response rate from school district administrators remained dismal, no matter what format was used—mail, email, Facebook, Instagram, SurveyMonkey, etc. One commenter added that defaulting back to the position of having teachers complete surveys during their school days, and thus being yet another imposition on content time in the classroom, was not a good alternative to address low response rates. Commenters

saw an important Federal role in accurately tracking program graduates across State boundaries.

Discussion: We agree that low response rates can affect the validity and reliability of survey outcomes as an indicator of program performance. While we are not sure why States would necessarily need to have match pairs of surveys from novice teachers and their employers as long as they achieve what the State and its consultative group determine to be a sufficient response rate, we expect that States will work to develop procedures that will promote adequate response rates in their consultation with stakeholders, as required under § 612.4(c)(1)(i). We also expect that States will use survey data received for the initial pilot reporting year (2017–2018), when States are not required to identify program performance, to adjust their procedures, address insufficient response rates, and address other issues affecting validity and reliability of survey results. We also note that since States, working with their stakeholders, may determine how to weight the various indicators and criteria they use to come up with a program's overall level of performance, they also have the means to address survey response rates that they deem too low to provide any meaningful indicator of program quality.

We believe that States can increase their response rate by incorporating the surveys into other structures, for example, having LEAs disseminate the survey at various points throughout teachers' induction period. Surveys may also be made part of required end-of-year closeout activities for teachers and their supervisors. As the regulations require States to survey only those teachers who are teaching in public schools and the public school employees who employ them (see the discussion of the definition of a novice teacher under § 612.2(d)), we believe that approaches such as these will enable States to achieve reasonably high response rates and, thus, valid survey results.

Finally, before the Department would consider working to develop a system, like one the commenter suggested, for tracking program graduates across State boundaries, we would want to consult with States, IHEs and other stakeholders.

Changes: None.

Specialized Accreditation (34 CFR 612.5(a)(4)(i))

Comments: Commenters were both supportive of and opposed to the proposed provision regarding specialized accreditation. Some

commenters noted that CAEP, the new specialized accreditor for teacher preparation programs, is not an accreditor currently recognized by the Department, which creates the possibility that there would be no federally-recognized specialized accreditor for teacher preparation programs. Commenters believed that the inclusion of this metric is premature without an organization, which the Secretary recognizes, that can confer accreditation on these programs. Other commenters argued that this provision inserts the Federal government into the State program approval process by mandating specific requirements that a State must consider when approving teacher preparation programs within its jurisdiction. They further stated that, although the Department references CAEP and its standards for what they referred to as a justification for some of the mandated indicators, CAEP does not accredit at the program level. They noted that, in fact, no accreditor provides accreditation specifically to individual teacher preparation programs; CAEP does so only to entities that offer these programs.

Commenters raised an additional concern that the Department is seeking to implicitly mandate national accreditation, which would result in increased costs; and that the proposed regulations set a disturbing precedent by effectively mandating specialized accreditation as a requirement for demonstrating program quality. Some commenters were concerned that with CAEP as the only national accreditor for teacher preparation, variety of and access to national accreditation would be limited and controlled.

Other commenters expressed concern that our proposal to offer each State the option of presenting an assurance that the program is accredited by a specialized accrediting agency would, at best, make the specialized accreditor an agent of the Federal government, and at worst, effectively mandate specialized accreditation by CAEP. The commenters argued instead that professional accreditation should remain a voluntary, independent process based on evolving standards of the profession.

Some commenters asked that the requirement for State reporting on accreditation or program characteristics in § 612.5(a)(4)(i) and (ii) be removed because these are duplicative of existing State efforts with no clear benefit to understanding whether a teacher preparation program can effectively prepare candidates for classroom success, and because the proposed regulations are redundant to work being done for State and national

accreditation. Other commenters recommended that States should not be required to adhere to one national system because absent a floor for compliance purposes, States may build better accreditation systems. One commenter proposed that, as an alternative to program accreditation, States be allowed to include other indicators predictive of a teacher's effect on student performance, such as evidence of the effective use of positive behavioral interventions and supports on the basis of the aggregate number of suspensions and expulsions written by educators from each teacher preparation program.

Some commenters argued that stronger standards are essential to improving teacher preparation programs, and providing some gradation of ratings of how well preparation programs are doing would provide useful information to the prospective candidates, hiring districts, and the teacher preparation programs the IRCs and SRCs are intended to inform. They noted that as long as CAEP continued with these accreditation levels, rather than lumping them all together under a high-level assurance, indicators of these levels should be reflected in the rating system. They also stated that where States do not require accreditation, States should attempt to assess the level at which programs are meeting the additional criteria.

Some commenters argued that accreditation alone is sufficient to hold teacher preparation programs accountable. Other commenters stated their agreement that active participation in professional accreditation should be recognized as an indicator of program quality. One commenter supported the alignment between the proposed regulations and CAEP's annual outcomes-based reporting measures, but was concerned that the regulations as proposed would spawn 50 separate State reporting systems, data definitions, and processes for quality assurance. The commenter supported incentivizing accreditation and holding all teacher preparation programs to the same standards and reporting requirements, and stated that CAEP's new accreditation process would achieve the goals of the proposed rules on a national level, while removing burden from the States. The commenter expressed concern about the requirement that the Secretary recognize the specialized accrediting agency, and the statement in the preamble of the NPRM that alternative route programs are often not eligible for specialized accreditation.

The commenter also indicated that current input- and compliance-based system requirements within the Department's recognition process for accreditors runs counter to the overarching goal of providing meaningful data and feedback loops for continuous improvement. The commenter noted that CAEP was launched to bring all teacher preparation programs, whether alternative, higher education based, or online-based, into the fold of accreditation. The commenter recommended that specialized accrediting agencies recognized by the Council for Higher Education Accreditation (CHEA) should be allowed to serve as a State indicator for program quality.

Commenters also noted that no definition of specialized accreditation was proposed, and requested that we include a definition of this term. One commenter recommended that a definition of specialized accreditation include the criteria that the Secretary would use to recognize an agency for the accreditation of professional teacher preparation programs, and that one of the criteria for a specialized agency should be the inclusion of alternative certification programs as eligible professional teacher preparation programs.

Discussion: First, it is important to note that these regulations do not set requirements for States' teacher preparation program approval processes. The regulations establish requirements for States' reporting to the Secretary on teacher preparation programs in their States, and specifically their identification of programs determined to be low-performing or at-risk of being low-performing, and the basis for those determinations.

Also, upon review of the comments, we realized that imprecise wording in the proposed regulations likely led to misunderstanding of its intent regarding program-level accreditation. Our intent was simple: to allow States able to certify that the entity offering the teacher preparation program had been accredited by a teacher preparation program accreditor recognized by the Secretary to rely on that accreditation to demonstrate that the program produces teacher candidates with the basic qualifications identified in § 612.5(a)(4)(ii) rather than having to separately report on those qualifications. The proposed regulations would not have required separate accreditation of each individual program offered by an entity, but we have revised § 612.5(a)(4)(i) to better

reflect this intent. In response to the concern about whether an entity that administers an alternative route program can receive such accreditation, the entity can apply for CAEP accreditation, as one of the commenters noted.

As summarized above, commenters presented opposing views of the role in the regulations of national accreditation through an accreditor recognized by the Secretary: Opinions that the inclusion of national accreditation in the regulations represented an unauthorized mandate for accreditation on the one hand, and an implication that accreditation alone was sufficient, thus making other options or further indicators unnecessary, on the other. Similarly, some commenters argued that the regulations require too much standardization across States (through either accreditation or a consistent set of broad indicators), while others argued that the regulations either allow too much variability among States (leading to lack of comparability) or encourage the duplicative effort of creating over 50 separate systems.

In the final regulations we seek to balance these concerns. States are to assess whether a program either has Federally recognized accreditation (§ 612.5(a)(4)(i)) or produces teacher candidates with certain characteristics (§ 612.5(a)(4)(ii)). Allowing States to report and assess whether their teacher preparation programs have specialized accreditation or produce teacher candidates with specific characteristics is not a mandate that a program fulfill either option, and it may eliminate or reduce duplication of effort by the State. If a State has an existing process to assess the program characteristics in § 612.5(a)(4)(ii), it can use that process rather than report on whether a program has specialized accreditation; conversely, if a State would like to simply use accreditation by an agency that evaluates factors in § 612.5(a)(4)(ii) (whether federally recognized or not) to fulfill this requirement, it may choose to do so. We believe these factors do relate to preparation of effective teachers, which is reflected in standards and expectations developed by the field, including the CAEP standards. And since accreditation remains a voluntary process, we cannot rely on it alone for transparency and accountability across all programs.

We now address the commenters' statement that there may be no federally recognized accreditor for educator preparation entities. If there is none, and a State would like to use accreditation by an agency whose standards align with the elements listed

in § 612.5(a)(4)(ii) (whether federally recognized or not) to fulfill the requirements in § 612.5(a)(4)(ii), it may do so. In fact, many States have worked or are working with CAEP on partnerships to align standards, data collection, and processes.

As we summarized above, some commenters requested that we include a definition of specialized accreditation, and that it include criteria the Secretary would use to recognize an agency for accreditation of teacher preparation programs, and that one of the criteria should be inclusion of alternative certification programs as eligible programs. While we appreciate these comments, we believe they are outside the scope of the proposed and final regulations.

Finally, because teacher preparation program oversight authority lies with the States, we do not intend for the regulations to require a single approach—via accreditation or otherwise—for all States to use in assessing the characteristics of teacher preparation programs. We do, however, encourage States to work together in designing data collection processes, in order to reduce or share costs, learn from one another, and allow greater comparability across States.

In terms of the use of other specific indicators (e.g., positive behavioral interventions), we encourage interested parties to bring these suggestions forward to their States in the stakeholder engagement process required of all States under § 612.4(c).

As one commenter noted, the current statutory recognition process for accreditors is heavily input based, while the emphasis of the regulations is on outcomes. Any significant reorientation of the accreditor recognition process would require statutory change. Nonetheless, given the rigor and general acceptance of the Federal recognition process, we believe that accreditation only by a Federally recognized accreditor be specifically assessed in § 612.5(a)(4)(i), rather than accreditors recognized by outside agencies such as CHEA. For programs not accredited by a federally recognized accreditor, States determine whether or to what degree a program meets characteristics for the alternative, § 612.5(a)(4)(ii).

Because the regulation provides for use of State procedures as an alternative to specialized accreditor recognized by the Secretary, nothing in § 612.5(a)(4) would mandate program accreditation by CAEP or any other entity. Nor would the regulation otherwise interfere in what commenters argue should be a voluntary, independent process based on evolving standards of the profession.

Indeed, this provision does not require any program accreditation at all.

Changes: We have revised § 612.5(a)(4)(i) to clarify that the assessment of whether a program is accredited by a specialized accreditor could be fulfilled by assessing the accreditation of the entity administering teacher preparation programs, not by accreditation of the individual programs themselves.

Characteristics of Teacher Preparation Programs (34 CFR 612.5(a)(4)(ii))

Comments: Multiple commenters expressed opposition to this provision, which would have States report whether a program lacking specialized accreditation under § 612.5(a)(4)(ii), has certain basic program characteristics. They stated that it is Federal overreach into areas of State or institutional control. For example, while commenters raised the issue in other contexts, one commenter noted that entrance and exit qualifications of teacher candidates have traditionally been the right of the institution to determine when considering requirements of State approval of teacher preparation programs. Other commenters expressed concern about Federal involvement in State and accrediting agency approval of teacher preparation programs, in which they stated that the Federal government should have limited involvement.

Other commenters expressed concern about the consequences of creating rigorous teacher candidate entry and exit qualifications. Some commenters expressed concerns that this requirement does not take into account the unique missions of the institutions and will have a disproportionate and negative impact on MSIs, which may see decreases in eligible teacher preparation program candidates by denying entry to candidates who do not meet entry requirements established by this provision. These commenters were concerned that rigorous entrance requirements could decrease diversity in the teaching profession.

Commenters also expressed general opposition to requiring rigorous entry and exit qualifications because they felt that the general assurance of entry and exit requirements did little to provide transparency or differentiate programs by program quality. Therefore, the provisions were unnecessary, and only added to the confusion and bureaucracy of these requirements.

Other commenters noted that a lack of clinical experience similar to the teaching environment in which they begin their careers results in a struggle for novice teachers, limiting their ability to meet the needs of their students in

their early years in the classroom. They suggested that the regulations include “teaching placement,” for example, or “produces teacher candidates with content and pedagogical knowledge and quality clinical preparation relevant to their teaching placement, who have met rigorous teacher candidate entry and exit qualifications pursuant” to increase the skills and knowledge of teacher preparation program completers who are being placed in the classroom as a teacher.

Discussion: While some commenters expressed concern with Federal overreach, as noted in the earlier discussion of § 612.5(a)(4)(i) these regulations do not set any requirements that States have established for approving teacher preparation programs; they establish requirements for State reporting to the Secretary on teacher preparation programs and how they determined whether any given program was low-performing or at-risk of being low-performing. In addition, a State may report whether institutions have fulfilled requirements in § 612.5(a)(4) through one of two options: Accreditation by an accreditor recognized by the Secretary or, consistent with § 612.5(a)(4)(ii), showing that the program produces teacher candidates (1) with content and pedagogical knowledge and quality clinical preparation, and (2) who have met rigorous exit qualifications (including, as we observe in response to the comments summarized immediately above, by being accredited by an agency whose standards align with the elements listed in § 612.5(a)(4)(ii)). Thus, the regulations do not require that programs produce teacher candidates with any Federally prescribed rigorous exit requirements or quality clinical preparation.

Rather, as discussed in our response to public comment in the section on Specialized Accreditation, States have the authority to use their own process to determine whether a program has these characteristics. We feel that this authority provides ample flexibility for State discretion in how to treat this indicator in assessing overall program performance and the information about each program that could help that program in areas of program design. Moreover, the basic elements identified in § 612.5(a)(4)(ii) reflect recommendations of the non-Federal negotiators, and we agree with them that the presence or absence of these elements should impact the overall level of a teacher preparation program’s performance.

The earlier discussion of “rigorous entry and exit requirements” in our

discussion of public comment on Definitions addresses the comments regarding rigorous entry requirements. We have revised § 612.5(a)(4)(ii)(C) accordingly to focus solely on rigorous exit standards. As mentioned in that previous discussion, the Department also encourages all States to include diversity of program graduates as an indicator in their performance rating systems, to recognize those programs that are addressing this critical need in the teaching workforce.

Ensuring that the program produces teacher candidates who have met rigorous exit qualifications alone will not provide necessary transparency or differentiation of program quality. However, having States report data on the full set of indicators for each program will provide significant and useful information, and explain the basis for a State's determination that a particular program is or is not low-performing or at-risk of being low-performing.

We agree with the importance of high quality clinical experience. However, it is unrealistic to require programs to ensure that each candidate's clinical experience is directly relevant to his or her future, as yet undetermined, teaching placement.

Changes: We have revised § 612.5(a)(4)(ii)(C) to require a State to assess whether the teacher preparation program produces teacher candidates who have met rigorous teacher candidate exit qualifications. We have removed the proposed requirement that States assess whether teacher candidates meet rigorous entry requirements.

Comments: None.

Discussion: Under § 612.5(a)(4) States must annually report whether a program is administered by an entity that is accredited by a specialized accrediting agency or produces candidates with the same knowledge, preparation, and qualifications. Upon review of the comments and the language of § 612.5(a)(4), we realized that the proposed lead stem to § 612.5(a)(4)(ii), "consistent with § 612.4(b)(3)(i)(B)", is not needed since the proposed latter provision has been removed.

Changes: We have removed the phrase "consistent with § 612.4(b)(3)(i)(B)" from § 612.5(a)(4)(ii).

Other Indicators of a Teacher's Effect on Student Performance (34 CFR 612.5(b))

Comments: Multiple commenters provided examples of other indicators that may be predictive of a teacher's effect on student performance and requested the Department to include them. Commenters stated that a teacher preparation program (by which we

assume the commenters meant "State") should be required to report on the extent to which each program meets workforce demands in their State or local area. Commenters argued this would go further than just reporting job placement, and inform the public about how the program works with the local school systems to prepare qualified teacher candidates for likely positions. Other commenters stated that, in addition to assessments, students should evaluate their own learning, reiterating that this would be a more well-rounded approach to assessing student success. One commenter recommended that the diversity of a teacher preparation program's students should be a metric to assess teacher preparation programs to ensure that teacher preparation programs have significant diversity in the teachers who will be placed in the classroom.

Discussion: We acknowledge that a State might find that other indicators beyond those the regulations require including those recommended by the commenters, could be used to provide additional information on teacher preparation program performance. The regulations permit States to use (in which case they need to report on) additional indicators of academic content knowledge and teaching skills to assess program performance, including other measures that assess the effect of novice teachers on student performance. In addition, as we have previously noted, States also may apply and report on other criteria they have established for identifying which teacher preparation programs are low-performing or at-risk of being low-performing.

In reviewing commenters' suggestions, we realized that the term "predictive" in the phrase "predictive of a teacher's effect on student performance" is inaccurate. The additional measures States may use are indicators of their academic content knowledge and teaching skill, rather than predictors of teacher performance.

We therefore are removing the word "predictive" from the regulations. If a State uses other indicators of academic content knowledge and teaching skills, it must, as we had proposed, apply the same indicators for all of its teacher preparation programs to ensure consistent evaluation of preparation programs within the State.

Changes: We have removed the word "predictive" from § 612.5(b).

Comments: None.

Discussion: As we addressed in the discussion of public comments on *Scope and Purpose* (§ 612.1), we have removed the proposed requirement that

in assessing the performance of each teacher preparation program States consider student learning outcomes "in significant part." In addition, as we addressed in the discussion of public comments on *Requirements for State Reporting on Characteristics of Teacher Preparation Programs* (§ 612.5(a)(4)(ii)), we have removed rigorous entry requirements from the characteristics of teacher preparation programs whose administering entities do not have accreditation by an agency approved by the Secretary. Proposed § 612.6(a)(1) stated that States must use student learning outcomes in significant part to identify low-performing or at risk programs, and proposed § 612.6(b) stated that the technical assistance that a State must provide to low-performing programs included technical assistance in the form of information on assessing the rigor of their entry requirements. We have removed both phrases from the final regulations.

Changes: The phrase "in significant part" has been removed from § 612.6(a)(1), and "entry requirement and" has been removed from § 612.6(b).

What must a State consider in identifying low-performing teacher preparation programs or at-risk teacher preparation programs, and what actions must a State take with respect to those identified as low-performing? (34 CFR 612.6)

Comments: Some commenters supported the requirement in § 612.6(b) that at a minimum, a State must provide technical assistance to low-performing teacher preparation programs in the State to help them improve their performance. Commenters were supportive of targeted technical assistance because it has the possibility of strengthening teacher preparation programs and the proposed requirements would allow States and teacher preparation programs to focus on continuous improvement and particular areas of strength and need. Commenters indicated that they were pleased that the first step for a State upon identifying a teacher preparation program as at-risk or low-performing is providing that program with technical support, including sharing data from specific indicators to be used to improve instruction and clinical practice. Commenters noted that States can help bridge the gap between teacher preparation programs and LEAs by using that data to create supports for those teachers whose needs were not met by their program. Commenters commended the examples of technical assistance provided in the regulations.

Some commenters suggested additional examples of technical assistance to include in the regulations. Commenters believed that technical assistance could include: Training teachers to serve as clinical faculty or cooperating teachers using the National Board for Professional Teaching Standards; integrating models of accomplished practice into the preparation program curriculum; and assisting preparation programs to provide richer clinical experiences. Commenters also suggested including first-year teacher mentoring programs and peer networks as potential ways in which a State could provide technical assistance to low-performing programs. One commenter noted that, in a recent survey of educators, teachers cite mentor programs in their first year of teaching (90 percent) and peer networks (84 percent) as the top ways to improve teacher training programs.

Commenters recommended that States have the discretion to determine the scope of the technical assistance, rather than requiring that technical assistance focus only on low-performing programs. This would allow States to distribute support as appropriate in an individual context, and minimize the risk of missing essential opportunities to identify best practices from high-performing programs and supporting those programs who are best-positioned to be increasingly productive and effective providers. Commenters suggested that entities who administer teacher preparation programs be responsible for seeking and resourcing improvement for their low-performing programs.

Some commenters suggested that the Federal government provide financial assistance to States to facilitate the provision of technical assistance to low-performing programs. Commenters suggested that the Department make competitive grants available to States to distribute to low-performing programs in support of program improvement. Commenters also suggested that the Federal government offer meaningful incentives to help States design, test, and share approaches to strengthening weak programs and support research to assess effective interventions, as it would be difficult for States to offer the required technical assistance because State agencies have little experience and few staff in this area. In addition, commenters recommended that a national training and technical assistance center be established to build data capacity, consistency, and quality among States and teacher preparation programs to support scalable continuous

improvement and program quality in educator preparation.

Commenters recommended that, in addition to a description of the procedures used to assist low-performing programs as required by section 207 of the HEA, States should be required to describe in the SRC the technical assistance they provide to low-performing teacher preparation programs in the last year. Commenters suggested that this would shift the information reported from descriptions of processes to more detailed information about real technical assistance efforts, which could inform technical assistance efforts in other States.

Commenters suggested adding a timeframe for States to provide the technical assistance to low-performing programs. Commenters suggested a maximum of three months from the time that the program is identified as low-performing because, while waiting for the assistance, and in the early stages of its implementation, the program will continue to produce teacher candidates of lower quality.

Commenters suggested that States should be required to offer the assistance of a team of well-recognized scholars in teacher education and in the education of diverse students in P-12 schools to assist in the assessment and redesign of programs that are rated below effective. Some commenters noted that States with publically supported universities designated as Historically Black Colleges and Universities, Hispanic Serving Institutions, and tribal institutions are required to file with the Secretary a supplemental report of equity in funding and other support to these institutions. Private and publically supported institutions in these categories often lack the resources to attract the most recognized scholars in the field.

Discussion: The Department appreciates the commenters' support for the requirement that States provide technical assistance to improve the performance of any teacher preparation program in its State that has been identified as low-performing.

We decline to adopt the recommendations of commenters who suggested that the regulations require States to provide specific types of technical assistance because we seek to provide States with flexibility to design technical assistance that is appropriate for the circumstances of each low-performing program. States have the discretion to implement technical assistance in a variety of ways. The regulations outline the minimum

requirements, and we encourage States that wish to do more, such as providing assistance to at-risk or other programs, to do so. Furthermore, nothing in the regulations prohibits States from providing technical assistance to at-risk programs in addition to low-performing programs. Similarly, while we encourage States to provide timely assistance to low-performing programs, we decline to prescribe a certain timeframe so that States have the flexibility to meet these requirements according to their capacity. In the SRC, States are required to provide a description of the process used to determine the kind of technical assistance to provide to low-performing programs and how such assistance is administered.

The Department appreciates comments requesting Federal guidance and resources to support high-quality technical assistance. We agree that such activities could be beneficial. However, the commenters' suggestions that the Department provide financial assistance to States to facilitate their provision of technical assistance, and to teacher preparation programs to support their improvement, and request for national technical assistance centers to support scalable continuous improvement and to improve program quality, are outside the scope of this regulation, which is focused on reporting. The Department will consider ways to help States implement this and other provisions of the regulations, including by facilitating the sharing of best practices across States.

Changes: None.

Subpart C—Consequences of Withdrawal of State Approval or Financial Support

What are the consequences for a low-performing teacher preparation program that loses the State's approval or the State's financial support? (34 CFR 612.7(a))

Comments: Multiple commenters opposed the consequences for a low-performing teacher preparation program based on their opinion that the loss of TEACH Grant eligibility will result in decreased access to higher education for students. Commenters noted that, as institutions become unable to award TEACH Grants to students in low-performing teacher preparation programs, students attending those programs would also lose access to TEACH Grant funds and thereby be responsible for the additional costs that the financial aid program normally would have covered. If low-income students are required to cover additional

amounts of their tuition, the commenters asserted, they will be less likely to continue their education or to enroll in the first place, if they are prospective students. The commenters noted that this would disproportionately impact low-income and minority teacher preparation students and decrease the enrollment for those populations.

A number of commenters expressed their concerns about the impacts of losing financial aid eligibility, and stated that decreasing financial aid for prospective teachers would negatively impact the number of teachers joining the profession. As costs for higher education continue to increase and less financial aid is available, prospective teacher preparation program students may decide not to enroll in a teacher preparation program, and instead pursue other fields that may offer other financial incentives to offset the costs associated with college. The commenters believed this would result in fewer teachers entering the field because fewer students would begin and complete teacher preparation programs, thus increasing teacher shortages. Other commenters were concerned about how performance results of teacher preparation programs may impact job outcomes for students who attended those programs in the past as their ability to obtain jobs may be impacted by the rating of a program they have not attended recently. The commenters noted that being rated as low-performing would likely reduce the ability of a program to recruit, enroll, and retain students, which would translate into fewer teachers being available for teaching positions. Others stated that there will be a decrease in the number of students who seek certification in a high-need subject area due to link between TEACH Grant eligibility and teacher preparation program metrics. They believe this will increase teacher shortages in areas that have a shortage of qualified teachers. Additional commenters believed that results from an individual teacher would affect privacy concerns and further drive potential teachers away from the field due to fears that their performance would be published in a public manner.

Some commenters were specifically concerned about the requirement that low-performing programs be required to provide transition support and remedial services to students enrolled at the time of termination of State support or approval. The commenters noted that low-performing programs are unlikely to have the resources or capacity to provide transitional support to students.

Discussion: As an initial matter, we note that the requirements in § 612.7(a) are drawn directly from section 207(b) of the HEA, which provides that a teacher preparation program from which the State has withdrawn its approval or financial support due to the State's identification of the program as low-performing may not, among other things, accept or enroll any student who receives title IV student aid. Section 207(b) of the HEA and § 612.7(a) do not concern simply the consequences of a program being rated as low-performing, but rather the consequences associated with a State's withdrawal of the approval of a program or the State's termination of its financial support based on such a rating. Similarly, section 207(b) of the HEA and § 612.7(a) do not concern a program's loss of eligibility to participate in the TEACH Grant program pursuant to part 686, but rather the statutory prohibition on the award of title IV student aid to students enrolled in such a teacher preparation program.

We disagree with the commenters that the loss of TEACH Grant funds will have a negative impact on affordability of, and access to attend, teacher preparation programs. A program that loses its eligibility would be required to provide transitional support, if necessary, to students enrolled at the institution at the time of termination of financial support or withdrawal of approval to assist students in finding another teacher preparation program that is eligible to enroll students receiving title IV, HEA funds. By providing transition services to students, individuals who receive title IV, HEA funds would be able to find another program in which to use their financial aid and continue in a teacher preparation program in a manner that will still address college affordability. We also disagree with the commenters who stated that low-performing programs are unlikely to have the resources to provide transitional support to students. We believe that an IHE with a low-performing teacher preparation program will be offering other programs that may not be considered low-performing. As such, an IHE will have resources to provide transition services to students affected by the teacher preparation program being labeled as low-performing even if the money does not come directly from the teacher preparation program.

While teacher preparation program labels may negatively impact job market outcomes because low-performing teacher preparation programs' ability to recruit and enroll future cohorts of students would be negatively impacted

by the rating, we believe these labels better serve the interests of students who deserve to know the quality of the program they may enroll in. As we have explained, § 612.7 applies only to programs that lose State approval or financial support as a result of being identified by the State as low-performing. It does not apply to every program that is identified as low-performing. We believe that, while providing information about the quality of a program to a prospective student may impact the student's enrollment decision, a student who wishes to become a teacher will find and enroll in a program that has not lost State approval or State financial support. We believe that providing quality consumer information to prospective students will allow them to make informed enrollment decisions. Students who are aware that a teacher preparation program is not approved by the State may reasonably choose not to enter that program. Individuals who wish to enter the teaching field will continue to find programs that prepare them for the workforce, while avoiding less effective programs. By doing so, we believe, the overall impact to the number of individuals entering the field will be minimal. Section 612.4(b) implements protections and allowances for teacher preparation programs with a program size of fewer than 25 students, which would help to protect against privacy violations, but does not require sharing information on individual teacher effectiveness with the general public.

In addition, we believe that, as section 207(b) of the HEA requires, removing title IV, HEA program eligibility from low-performing teacher preparation programs that lose State approval or financial support as a result of the State assessment will encourage individuals to enroll in more successful teacher preparation programs. This will keep more prospective teachers enrolled and will mitigate any negative impact on teacher employment rates.

While these regulations specify that the teacher placement rate and the teacher retention rate be calculated separately for high-need schools, no requirements have been created to track employment outcomes based on high-need subject areas. We believe that an emphasis on high-need schools will help focus on improving student success across the board for students in these schools. In addition, the requirement to report performance at the individual teacher preparation program level will likely promote reporting by high-need subjects as well.

Section 612.7(a) codifies statutory requirements related to teacher

preparation programs that lose State approval or State financial support, and the Department does not have flexibility to alter the language. This includes the requirements for providing transitional services to students enrolled. However, we believe that many transition services are already being offered by colleges and universities, as well as through community organizations focused on student transition to higher education. For example, identifying potential colleges and support in admissions and financial aid application completion, disability support services, remedial education, as well as career services support are all components of transition services that most IHEs offer to some degree to their student body.

The regulations do not require that an institution dictate how a student is assisted at the time of termination of financial support or withdrawal of approval from the State. Transition services may include helping a student transfer to another program at the same institution that still receives State funding and State approval, or another program at another institution. The transition services offered by the institution should be in the best interest of the student and assist the student in meeting their educational and occupational goals. However, the Department believes that teacher preparation programs may be offering these services through their staff already and those services should not stop because of the consequences of withdrawal of State approval or financial support.

Changes: None.

Institutional Requirements for Institutions Administering a Teacher Preparation Program That Has Lost State Approval or Financial Support (34 CFR 612.7(b))

Comments: One commenter believed that the Department should require States to notify K–12 school officials in the instance where a teacher preparation program student is involved in clinical practice at the school, noting that the K–12 school would be impacted by the loss of State support for the teacher preparation program.

Discussion: We decline to require schools and districts to be notified directly when a teacher preparation program of a student teacher is assessed as low-performing. While that information would be available to the public, we believe that directly notifying school officials may unfairly paint students within that program as ineffective. A student enrolled in a low-performing teacher preparation program may be an effective and successful

teacher and we believe that notifying school officials directly may influence the school officials to believe the student teacher would be a poor performer even though there would be no evidence about the individual supporting this assumption.

Additionally, we intend § 612.7(b) to focus exclusively on the title IV, HEA consequences to the teacher preparation program that loses State approval or financial support and on the students enrolled in those programs. This subsection describes the procedure that a program must undertake to ensure that students are informed of the loss of State approval or financial support.

Changes: None.

How does a low-performing teacher preparation program regain eligibility to accept or enroll students receiving title IV, HEA program funds after a loss of the State's approval or the State's financial support? (34 CFR 612.8(a))

Comments: One commenter noted that even if a State has given its reinstatement of funds and recognition of improved performance, the program would have to wait for the Department's approval to be fully reinstated. The commenter stated that this would be Federal overreach into State jurisdiction and decision-making. Additionally, the commenter noted that the regulations appear to make access to title IV, HEA funds for an entire institution contingent on the ratings of teacher preparation programs.

Another commenter noted that some programs might not ever regain authorization to prepare teachers if they must transfer students to other programs since there will not be any future student outcomes associated with the recent graduates of the low-performing programs.

Discussion: We decline to adopt the suggestion of the commenter that the Department should not require an application by a low-performing teacher preparation program to regain their eligibility to accept or enroll students receiving title IV, HEA funds which had previously lost their eligibility to do so. Section 207(b)(4) of the HEA provides that a teacher preparation program that loses eligibility to enroll students receiving title IV, HEA funds may be reinstated upon demonstration of improved performance, as determined by the State. Reinstatement of eligibility of a low-performing teacher preparation program would occur if the program meets two criteria: (1) Improved performance on the teacher preparation program performance criteria in § 612.5 as determined by the State; and (2) reinstatement of the State's approval or

the State's financial support, or, if both were lost, the State's approval and the State's financial support. Section 612.8 operationalizes the process for an institution to notify the Secretary that the State has determined the program has improved its performance sufficiently to regain the States approval or financial support and the teacher preparation should again be permitted to enroll students receiving title IV aid.

We do not propose to tie the entire institution's eligibility for title IV, HEA funds to the performance of their teacher preparation program. Any loss of title IV, HEA funds based on these regulations would only apply to the institution's teacher preparation program and not to the entire institution. Therefore, an institution would be able to have both title IV eligible and non-title IV eligible programs at their institution. In addition, based on the reporting by program, an institution could have both eligible and non-eligible title IV teacher preparation programs based on the rating of each program. The remaining programs at the institution would still be eligible to receive title IV, HEA funds. We are concerned that our inclusion of proposed § 612.8(b)(2) may have led the commenter to believe that an entire institution would be prohibited from participating in the title IV programs as a result of a teacher preparation program's loss of approval or financial support based on low performance. To avoid such confusion, we have removed § 612.8(b)(2) from the final regulations. The institutional eligibility requirements in part 600 sufficiently describe the requirements for institutions to participate in the title IV, HEA programs.

We believe that providing transitional support to students enrolled at the institution at the time a State may terminate financial support or withdraw approval of a teacher preparation program will provide appropriate consumer protections to students. We disagree with the commenter who stated it would be impossible for a program to improve its performance on the State assessment, because there could not be any data available on which the program could be assessed, such as student learning outcomes associated with programs if the program was prohibited from enrolling additional title IV eligible students. Programs would not be prohibited from enrolling students to determine future student outcomes. Programs that have lost State approval or financial support would be limited only in their ability to enroll additional title IV eligible students, not to enroll all students.

Changes: We have removed § 612.8(b)(2), which was related to institutional eligibility.

Part 686—Teacher Education Assistance for College and Higher Education (TEACH) Grant Program

Subpart A—Scope, Purpose, and General Definitions

Section 686.1 Scope and Purpose

Comments: None.

Discussion: The Higher Education Opportunity Act of 2008 (HEOA) (Pub. L. 110–315) amended section 465(a)(2)(A) of the HEA to include educational service agencies in the description of the term low-income school, and added a new section 481(f) that provides that the term “educational service agency” has the meaning given the term in section 9101 of the ESEA. Also, the ESSA maintained the definition of the term “educational service agency”, but it now appears in section 8101 of the ESEA, as amended by the ESSA. We proposed changes to the TEACH Grant program regulations to incorporate the statutory change, such as replacing the definition of the term “school serving low-income students (low-income school)” in § 686.2 with the term “school or educational service agency serving low-income students (low-income school).” Previously, § 686.1 stated that in exchange for a TEACH Grant, a student must agree to serve as a full-time teacher in a high-need field in a school serving low-income students. We revise the section to provide that a student must teach in a school or educational service agency serving low-income students.

Changes: We revised § 686.1 to update the citation in the definition of the term educational service agency to section 8101 of the ESEA, as amended, and to use the new term “school or educational service agency serving low-income students (low-income school)” in place of the term “school serving low-income students (low-income school).”

Section 686.2 Definitions

Classification of Instructional Program (CIP)

Comments: None.

Discussion: In the NPRM, we proposed to use the CIP to identify TEACH Grant-eligible STEM programs. Because, as discussed below, we are no longer identifying TEACH Grant-eligible STEM programs, the term CIP is not used in the final regulations.

Changes: We have removed the definition of the term CIP from § 686.2.

High-Quality Teacher Preparation Program Not Provided Through Distance Education § 686.2

Comments: None.

Discussion: In the NPRM, we proposed a definition for the term “high-quality teacher preparation program.” In response to comments, we have added a definition of a “high-quality teacher preparation program provided through distance education” in § 686.2. We make a corresponding change to the proposed definition of the term “high-quality teacher preparation program” to distinguish a “high-quality teacher preparation program not provided through distance education” from a “high-quality teacher preparation program provided through distance education.”

Furthermore, to ensure that the TEACH Grant program regulations are consistent with the changes made to part 612, we have revised the timelines that we proposed in the definition of the term high-quality teacher preparation program in part 686 that we now incorporate in the terms “high quality teacher preparation not provided through distance education” and “high quality teacher preparation program provided through distance education.” We have also removed the phrase “or of higher quality” from “effective or of higher quality” to align the definition of “high-quality teacher preparation program not provided through distance education” with the definition of the term “effective teacher preparation program” in 34 CFR 612.1(d), which provides that an effective teacher preparation program is a program with a level of performance higher than a low-performing teacher preparation or an at-risk teacher preparation program. The phrase “or of higher quality” was redundant and unnecessary.

The new definition is consistent with changes we made respect to program-level reporting (including distance education), which are described in the section of the preamble related to § 612.4(a)(1)(i). We note that the new definition of the term “high quality teacher preparation program not provided through distance education” relates to the classification of the program under 34 CFR 612.4(b) made by the State where the program was located, as the proposed definition of the term “high-quality teacher preparation program” provided. This is in contrast to the definition of the term “high-quality teacher preparation program provided through distance education” discussed later in this document.

Also, the proposed definition provided that in the 2020–2021 award year, a program would be “high-quality” only if it was classified as an effective teacher preparation program in either or both the April 2019 and/or April 2020 State Report Cards. We have determined that this provision is unnecessary and have deleted it. Now, because the first State Report Cards under the regulations will be submitted in October 2019, we have provided that starting with the 2021–2022 award year, a program is high-quality if it is not classified by the State to be less than an effective teacher preparation program based on 34 CFR 612.4(b) in two out of the previous three years. We note that in the NPRM, the definition of the term “high-quality teacher preparation program” contained an error. The proposed definition provided that a program would be considered high-quality if it were classified as effective or of higher quality for two out of three years. We intended the requirement to be that a program is high-quality if it is not rated at a rating lower than effective for two out of three years. This is a more reasonable standard, and allows a program that has been rated as less than effective to improve its rating before becoming ineligible to award TEACH Grants.

Changes: We have added to § 686.2 the term “high-quality teacher preparation program not provided through distance education” and defined it as a teacher preparation program at which less than 50 percent of the program’s required coursework is offered through distance education that, starting with the 2021–2022 award year and subsequent award years, is not classified by the State to be less than an effective teacher preparation program, based on 34 CFR 612.4(b) in two out of the previous three years or meets the exception from State reporting of teacher preparation program performance under 34 CFR 612.4(b)(3)(ii)(D) or 34 CFR 612.4(b)(5).

High-Quality Teacher Preparation Program Provided Through Distance Education § 686.2

Comments: In response to the Supplemental NPRM, many commenters stated that it was unfair that one State’s classification of a teacher preparation program provided through distance education as low-performing or at-risk of being low-performing would determine TEACH Grant eligibility for all students enrolled in that program who receive TEACH Grants, even if other States classified the program as effective. Commenters did not propose alternative options. One

commenter argued that the determination of institutional eligibility to disburse TEACH Grants is meant to rest squarely with the Department, separate from determinations relating to the title II reporting system. Another commenter suggested that there should be a single set of performance standards for TEACH Grants to which all States agree to hold distance education program accountable. Some commenters felt teacher preparation programs provided through distance education might have few students in a State and, as a result, might become victims of an unusually unrepresentative sample in a particular State.

Several commenters stated that it was unclear how the proposed regulations would take into account TEACH Grant eligibility for students enrolled in a teacher preparation program provided through distance education that does not lead to initial certification or if the program does not receive an evaluation by a State. Another commenter stated that the proposed regulations would effectively impose a requirement for distance education institutions to adopt a 50-State authorization compliance strategy to offer their distance education teacher licensure programs to students in all 50 States.

Discussion: We are persuaded by the commenters that the proposed regulations were too stringent. Consequently, we are revising the proposed definition of “high-quality teacher preparation program provided through distance education” such that, to become ineligible to participate in the TEACH Grant program, the teacher preparation program provided through distance education would need to be rated as low-performing or at-risk for two out of three years by the same State. This revision focuses on the classification of a teacher preparation program provided through distance education as provided by the same State rather than the classification of a program by multiple States to which the commenters objected. Moreover, this is consistent with the treatment of teacher preparation programs at brick-and-mortar institutions which also have to be classified as low-performing or at-risk for two out of three years by the same State to become ineligible to participate in the TEACH Grant program.

We disagree with the commenter that the determination of institutional eligibility to disburse TEACH Grants is meant to rest squarely with the Department, separate from determinations relating to teacher preparation program performance under title II of the HEA. The HEA provides

that the Secretary determines which teacher preparation programs are high-quality, and the Secretary has reasonably decided to rely, in part, on the classification of teacher preparation program performance by States under title II of the HEA. Further, as the performance rating of teacher preparation programs not provided through distance education could also be subject to unrepresentative samples (for example, programs located near a State border), this concern is not limited to teacher preparation programs provided through distance education.

The performance standards related to title II are left to a State’s discretion; thus, if States want to work together create a single set of performance standards, there is no barrier to them doing so.

By way of clarification, the HEA and current regulations provide for TEACH Grant eligibility for students enrolled in post-baccalaureate and master’s degree programs. The eligibility of programs that do not lead to initial certification is not based on a title II performance rating. In addition, if the teacher preparation program provided through distance education is not classified by a State for a given year due to small n-size, students would still be able to receive TEACH Grants if the program meets the exception from State reporting of teacher preparation program performance under 34 CFR 612.4(b)(3)(ii)(D) or 34 CFR 612.4(b)(5). We disagree that the regulations effectively impose a requirement for distance education institutions to adopt a 50-State authorization compliance strategy to offer their distance education teacher licensure programs to students in all 50 States. Rather, our regulations provide, in part, for reporting on teacher preparation programs provided through distance education under the title II reporting system with the resulting performance level classification of the program based on that reporting forming the basis for that program’s eligibility to disburse TEACH Grants.

Changes: We have revised the definition of a high-quality teacher preparation program provided through distance education to be a teacher preparation program at which at least 50 percent of the program’s required coursework is offered through distance education and that starting with the 2021–2022 award year and subsequent award years, is not classified by the same State to be less than an effective teacher preparation program based on 34 CFR 612.4(b) in two of the previous three years or meets the exception from State reporting of teacher preparation

program performance under 34 CFR 612.4(b)(3)(ii)(D) or 34 CFR 612.4(b)(5).

TEACH Grant-Eligible Institution

Comments: Several commenters disagreed with our proposal to link TEACH Grant program eligibility to State ratings of teacher preparation program performance conducted under the title II reporting system described in part 612. Commenters asserted that State ratings of teacher preparation programs should not determine TEACH Grant program eligibility because it is not a good precedent to withhold financial aid from qualified students on the basis of the quality of the program in which the student is enrolled. Commenters also expressed concern that, under part 612, each State may develop its own criteria for assessing teacher preparation program quality, and that this variation between States will impact teacher preparation programs’ eligibility for TEACH Grants. Commenters stated that using different quality measures to determine student eligibility for TEACH Grants will be unfair to students, as programs in different States will be evaluated using different criteria.

A commenter that offers only graduate degree programs and no programs that lead to initial certification noted that the HEA provides that current teachers may be eligible for TEACH Grants to obtain graduate degrees, and questioned how those students could obtain TEACH Grants under the proposed definitions of the terms “TEACH Grant-eligible institution” and “TEACH Grant-eligible program.”

Commenters also expressed concern that the proposed definition of the term TEACH Grant-eligible institution will result in an overall reduction in the number of institutions that are eligible to provide TEACH Grants, and that, because of this reduction, fewer students will pursue high-need fields such as special education, or teach in high-poverty, diverse, urban or rural communities where student test scores may be lower. One commenter stated that it is unfair to punish students by denying them access to financial aid when the States they live in and the institutions they attend may not be able to supply the data on which the teacher preparation programs are being assessed.

Discussion: We believe that creating a link between institutions with teacher preparation programs eligible for TEACH Grants and the ratings of teacher preparation programs under the title II reporting system is critical, and will allow the Secretary to identify what teacher preparation programs are high-

quality. An “eligible institution,” as defined in section 420L(1)(A) of the HEA, is one that the Secretary determines “provides high-quality teacher preparation and professional development services, including extensive clinical experience as part of pre-service preparation,” among other requirements. Consistent with this requirement, we have defined the term “TEACH Grant-eligible program” to include those teacher preparation programs that a State has determined provide at least effective teacher preparation. Under title II of the HEA, States are required to assess the quality of teacher preparation programs in the State and to make a determination as to whether a program is low-performing or at-risk of being low-performing. A teacher preparation program that does not fall under either one of these categories is considered an effective teacher preparation program under these final regulations. It is appropriate and reasonable for the Secretary to rely on a State’s assessment of the quality of teacher preparation programs in that State for purposes of determining which programs are TEACH Grant-eligible programs.

We agree that States will assess teacher preparation programs based on different criteria and measures. The HEA only requires a State to assess the quality of teacher preparation in that State and does not require comparability between States. That different States may use different standards is not necessarily unfair, as it is reasonable for States to consider specific conditions in their States when designing their annual assessments. We believe it is important that students receiving TEACH Grants be enrolled in programs that the State has identified as providing effective teacher preparation.

We agree that in addition to ensuring that students wishing to achieve initial certification to become teachers are eligible for TEACH Grants, the HEA provides that a teacher or a retiree from another occupation with expertise in a field in which there is a shortage of teachers, such as mathematics, science, special education, English language acquisition, or another high-need field, or a teacher who is using high-quality alternative certification routes to become certified is eligible to receive TEACH Grants. To ensure that these eligible students are able to obtain TEACH grants, we have modified the definitions of the terms “TEACH Grant-eligible institution” and “TEACH Grant-eligible program.”

We also acknowledge the possibility that the overall number of institutions eligible to award TEACH Grants could

decrease, because a TEACH Grant-eligible institution now must, in most cases, provide at least one high quality teacher preparation program, while in the current regulation, an institution may be TEACH Grant-eligible if it offers a baccalaureate degree that, in combination with other training or experience, will prepare an individual to teach in a high-need field and has entered into an agreement with another institution to provide courses necessary for its students to begin a career in teaching. We note that so long as an otherwise eligible institution has one high-quality teacher preparation program not provided through distance education or one high-quality program provided through distance education, it continues to be a TEACH Grant-eligible institution. Furthermore, we do not believe that fewer incentives for students to pursue fields such as special education or to teach in high-poverty, diverse, or rural communities where test scores may be lower would necessarily be created. TEACH Grants will continue to be available to students so long as their teacher preparation programs are classified as effective teacher preparation programs by the State (subject to the exceptions previously discussed), and we are not aware of any evidence that programs that prepare teachers who pursue fields such as special education or who teach in communities where test scores are lower will be classified as at-risk or low-performing teacher preparation programs on the basis of lower test scores. We believe that those students will choose to pursue those fields while enrolled in high-quality programs. The larger reason that the number of institutions providing TEACH Grants may decrease is that the final regulations narrow the definition of a TEACH Grant-eligible institution to generally those institutions that offer at least one high-quality teacher preparation program not provided through distance education or one high-quality teacher preparation program provided through distance education at the baccalaureate or master’s degree level (that also meets additional requirements) and institutions that provide a high-quality teacher preparation program not provided through distance education or one high-quality teacher preparation program provided through distance education that is a post-baccalaureate program of study.

We do not agree that student learning outcomes for any subgroup, including for teachers who teach students with disabilities, would necessarily be lower

if properly measured. Further, student learning outcomes is one of multiple measures used to determine a rating and, thereby, TEACH eligibility. So a single measure, whether student learning outcomes or another, would not necessarily lead to the teacher preparation program being determined by the State to be low-performing or at-risk of being low-performing and correspondingly being ineligible for TEACH Grants. As discussed elsewhere in this document, States determine the ways to measure student learning outcomes that give all teachers a chance to demonstrate effectiveness regardless of the composition of their classrooms, and States may also determine weights of the criteria used in their State assessments of teacher preparation program quality.

We do not agree with the comment that the definition of the term Teach Grant-eligible program will unfairly punish students who live in States or attend institutions that fail to comply with the regulations in part 612 by failing to supply the data required in that part. Section 205 of the HEA requires States and institutions to submit IRCs and SRCs annually. In addition, students will have access to information about a teacher preparation program’s eligibility before they enroll so that they may select programs that are TEACH Grant-eligible. Section 686.3(c) also allows students who are currently enrolled in a TEACH Grant-eligible program to receive additional TEACH Grants to complete their program, even if the program becomes ineligible to award TEACH Grants to new students.

For reasons discussed under the TEACH Grant-eligible program section of this document, we have made conforming changes to the definition of a TEACH Grant-eligible program that are reflected in the definition of TEACH Grant-eligible institution where applicable.

Changes: We have revised the definition of a TEACH Grant-eligible institution to provide that, if an institution provides a program that is the equivalent of an associate degree as defined in § 668.8(b)(1) that is acceptable for full credit toward a baccalaureate degree in a high-quality teacher preparation program not provided through distance education or one high-quality teacher preparation program provided through distance education or provides a master’s degree program that does not meet the definition of the terms “high quality teacher preparation not provided through distance education” or “high quality teacher preparation program that

is provided through distance education” because it is not subject to reporting under 34 CFR part 612, but that prepares (1) a teacher or a retiree from another occupation with expertise in a field in which there is a shortage of teachers, such as mathematics, science, special education, English language acquisition, or another high-need field; or (2) a teacher who is using high-quality alternative certification routes to become certified, the institution is considered a TEACH Grant-eligible institution.

TEACH Grant-Eligible Program

Comments: A commenter recommended the definition of Teach Grant-eligible program be amended to add “or equivalent,” related to the eligibility of a two-year program so that the definition would read, “Provides a two-year or equivalent program that is acceptable for full credit toward a baccalaureate degree in a high-quality teacher preparation program” because some programs could be less than two years, but the curriculum covered is the equivalent of a two-year program.

Discussion: We agree with the commenter that some programs could be less than two years, but the curriculum could cover the equivalent of a two-year program, and therefore agree that the provision regarding what constitutes an eligible two-year program of study should be revised. However, we base the revision on already existing regulations regarding “eligible program” rather than the commenter’s specific language recommendations. The regulations for “eligible program” in § 668.8 provide that an eligible program is an educational program that is provided by a participating institution and satisfies other relevant requirements contained in the section, including that an eligible program provided by an institution of higher education must, in part, lead to an associate, bachelors, professional, or graduate degree or be at least a two academic-year program that is acceptable for full credit toward a bachelor’s degree. For purposes of § 668.8, the Secretary considers an “equivalent of an associate degree” to be, in part, the successful completion of at least a two-year program that is acceptable for full credit toward a bachelor’s degree and qualifies a student for admission into the third year of a bachelor’s degree program. Based on these existing regulations, we amended the proposed definition of TEACH Grant-eligible program to provide that a program that is the equivalent of an associate degree as defined in § 668.8(b)(1) that is acceptable for full credit toward a baccalaureate degree in

a high-quality teacher preparation program is considered to be a TEACH Grant-eligible program. In addition, as described in the discussion of the term “TEACH Grant-eligible institution,” we have made a corresponding change to the definition of the term “TEACH Grant-eligible program” to ensure that programs that prepare graduate degree students who are eligible to receive TEACH grants pursuant to section 420N(a)(2)(B) of the HEA are eligible programs. This change applies to programs that are not assessed by a State under title II of the HEA.

Changes: We have revised the definition of TEACH Grant-eligible program to provide that a program that is a two-year program or is the equivalent of an associate degree as defined in § 668.8(b)(1) that is acceptable for full credit toward a baccalaureate degree in a high quality teacher preparation program is also considered to be a TEACH Grant-eligible program. We have also clarified that a master’s degree program that does not meet the definition of the terms “high quality teacher preparation not provided through distance education” or “high quality teacher preparation program that is provided through distance education” because it is not subject to reporting under 34 CFR part 612, but that prepares (1) a teacher or a retiree from another occupation with expertise in a field in which there is a shortage of teachers, such as mathematics, science, special education, English language acquisition, or another high-need field; or (2) a teacher who is using high-quality alternative certification routes to become certified is a TEACH Grant-eligible program.

TEACH Grant-Eligible STEM Program

Comments: Multiple commenters stated that the proposed definition of the term TEACH Grant-eligible STEM program was not discussed during the negotiated rulemaking process and unreasonably creates a separate standard for TEACH Grant eligibility without the corresponding reporting required in the SRC. Commenters generally stated that all teacher preparation programs should be held accountable in a fair and equitable manner. Commenters further stated that the Department did not provide any rationale for excepting STEM programs from the ratings of teacher preparation programs described in part 612. Commenters also noted that the proposed definition ignores foreign language, special education, bilingual education, and reading specialists, which are identified as high-need fields in the HEA. Several commenters also

disagreed with the different treatment provided to STEM programs under the definition because they believed that STEM fields were being given extra allowances with respect to failing programs and that creating different standards of program effectiveness for STEM programs and teacher preparation programs makes little sense. Commenters suggested that, instead, the Department should require that STEM programs to be rated as effective or exceptional in order for students in those programs to receive TEACH Grants.

Commenters also questioned what criteria the Secretary would use to determine eligibility, since the Secretary would be responsible for determining which STEM programs are TEACH Grant-eligible. Finally, commenters emphasized the importance of the pedagogical aspects of teacher education.

Discussion: We agree that it is important that teacher preparation programs that are considered TEACH Grant-eligible programs be high-quality programs, and that the proposed definition of the term TEACH Grant-eligible STEM program may not achieve that goal. The regulations in part 612 only apply to teacher preparation programs, which are defined in that part generally as programs that lead to an initial State teacher certification or licensure in a specific field. Many STEM programs do not lead to an initial State teacher certification or licensure, and hence are not subject to the State assessments described in part 612 and section 207 of the HEA. We have carefully considered the commenters’ concerns, and have decided to remove our proposed definition of the term TEACH Grant-eligible STEM program because it would be difficult to implement and would result in different types of programs being held to different quality standards. We also acknowledge the importance of the pedagogical aspects of teacher education. A result of the removal of this definition will be that a student must be enrolled in a high-quality teacher preparation program as defined in § 686.2(e) to be eligible for a TEACH Grant, and that few students participating in STEM programs will receive TEACH Grants. Those students may be eligible for TEACH Grants for post-baccalaureate or graduate study after completion of their STEM programs.

Changes: We have removed the TEACH Grant-eligible STEM program definition from § 686.2, as well as references to and uses of that definition elsewhere in part 686 where this term appeared.

Section 686.11 Eligibility To Receive a TEACH Grant

Comments: Some commenters supported linking TEACH Grant eligibility to the title II reporting system for the 2020–2021 title IV award year, noting that this would prevent programs that fail to prepare teachers effectively from remaining TEACH Grant-eligible, and that linking TEACH Grant program eligibility to teacher preparation program quality is an important lever to bring accountability to programs equipping teachers to teach in the highest need schools. Other commenters were concerned that linking title II teacher preparation program ratings to TEACH Grant eligibility will have a negative impact on recruitment for teacher preparation programs, will restrict student access to TEACH Grants, and will negatively impact college affordability for many students, especially for low- and middle-income students and students of color who may be disproportionately impacted because these students typically depend more on Federal student aid. Commenters were concerned that limiting aid for these students, as well as for students in rural communities or students in special education programs, would further increase teacher shortages in these areas, would slow down progress in building a culturally and racially representative educator workforce, and possibly exacerbate current or pending teacher shortages across the nation in general. Many commenters opined that, because there is no evidence supporting the use of existing student growth models for determining institutional eligibility for the TEACH Grant program, institutional eligibility for TEACH Grants and student eligibility for all title IV Federal student aid in a teacher preparation program would be determined based on an invalid and unreliable rating system. Some commenters recommended that Federal student aid be based on student need, not institutional ratings, that they asserted lack a sound research base because of the potential unknown impacts on underrepresented groups. Others expressed concern that financial aid offices would experience more burden and more risk of error in the student financial aid packaging process because they would have more information to review to determine student eligibility. This would include, for distance education programs, where each student lives and which programs are eligible in which States.

Many commenters stated that the proposed regulations would grant the State, rather than the Department of

Education, authority to determine TEACH Grant eligibility, which is a delegation of authority that Congress did not provide the Department, and that a State's strict requirements may make the TEACH Grant program unusable by institutions, thereby eliminating TEACH Grant funding from students at those institutions. It was recommended that the regulations allow for professional judgment regarding TEACH Grant eligibility, that TEACH Grants mimic Federal Pell grants in annual aggregates, and that a link should be available at *studentloans.gov* for TEACH Grant requirements. One commenter further claimed that the proposed regulations represent a profound and unwelcome shift in the historic relationship between colleges, States, and the Federal government and that there is no indication that the HEA envisions the kind of approach to institutional and program eligibility for TEACH Grants proposed in the regulations. The commenter opined that substantive changes to the eligibility requirements should be addressed through the legislative process, rather than through regulation. A commenter noted that a purpose of the proposed regulations is to deal with deficiencies in the TEACH Grant program, and thus, the Department should focus specifically on issues with the TEACH Grant program and not connect these to reporting of the teacher preparation programs.

Discussion: We appreciate the comments supporting the linking of TEACH Grant eligibility to the title II reporting system for the 2021–2022 title IV award year. We disagree, however, with comments suggesting that such a link will have a negative impact on recruitment for teacher preparation programs and restrict student access to TEACH Grants because this circumstance would only arise in the case of programs rated other than effective, and it is not unreasonable for students to choose to attend teacher preparation programs that are effective over those that are not. While we agree that low- and middle-income students and students of color are more likely to depend on Federal student aid, the regulations would not affect their eligibility for Federal student aid as long as they are enrolled in a TEACH Grant-eligible teacher preparation program at a TEACH Grant-eligible institution. The same would be true for students in rural communities or in special education programs. Because student eligibility for Federal student aid would not be affected in these circumstances, teacher shortages in these areas also would not

be impacted. In 2011, only 38 institutions were identified by their States as having a low-performing teacher preparation program.⁵³ That evaluation was based on an institution-wide assessment of quality. Under part 612, each individual teacher preparation program offered by an institution will be evaluated by the State, and it would be unlikely for all teacher preparation programs at an institution to be rated as low-performing. We believe that students reliant on Federal student aid will have sufficient options to enroll in high-quality teacher preparation programs under the final regulations. While we hope that students would use the ratings of teacher preparation programs to pick more effective programs initially, we also provide under § 686.3 that an otherwise eligible student who received a TEACH Grant for enrollment in a TEACH Grant-eligible program is eligible to receive additional TEACH Grants to complete that program, even if that program is no longer considered TEACH Grant-eligible. An otherwise eligible student who received a TEACH Grant for enrollment in a program before July 1 of the year these final regulations become effective would remain eligible to receive additional TEACH Grants to complete the program even if the program is no longer considered TEACH Grant-eligible under § 686.2(e).

With respect to comments objecting to the use of student growth to determine TEACH Grant eligibility, student growth is only one of the many indicators that States use to assess teacher preparation program quality in part 612, and States have discretion to determine the weight assigned to that indicator in their assessment.

While the new regulations will require financial aid offices to track and review additional information with respect to student eligibility for TEACH Grants, we do not agree that this would result in greater risk of incorrect packaging of financial aid. For an institution to begin and continue to participate in any title IV, HEA program, the institution must demonstrate to the Secretary that it is capable of administering that program under the standards of administrative capability provided under § 668.16 (Standards of administrative capability). An institution that does not meet administrative capability standards

⁵³ U.S. Department of Education, Office of Postsecondary Education (2013). Preparing and Credentialing the Nation's Teachers: The Secretary's Ninth Report on Teacher Quality. Washington, DC. Retrieved from <https://title2.ed.gov/Public/TitleIIReport13.pdf>. (Hereafter referred to as "Secretary's Ninth Report.")

would not be eligible to disburse any title IV, HEA funds, including TEACH Grants. Moreover, institutions have always had to determine whether a student seeking a TEACH Grant is enrolled in a TEACH Grant-eligible program. The final regulations require the institution to be aware of whether any of the teacher preparation programs at the institution have been rated as low-performing or at-risk by the State when identifying which programs that it offers are TEACH Grant-eligible programs.

We disagree with comments asserting that the proposed regulations would grant States, rather than the Department, authority to determine TEACH Grant eligibility, which they claimed is a delegation of authority that Congress did not authorize. The HEA provides that an “eligible institution” for purposes of the TEACH Grant program is one “that the Secretary determines . . . provides high quality teacher preparation” The Secretary has determined that States are in the best position to assess the quality of teacher preparation programs located in their States, and it is reasonable for the Secretary to rely on the results of the State assessment required by section 207 of the HEA. We believe that it is appropriate to use the regulatory process to define how the Secretary determines that an institution provides high quality teacher preparation and that the final regulations reasonably amend the current requirements so that they are more meaningful.

We also disagree with commenters that a State’s strict requirements may make the TEACH Grant program unusable by institutions and thereby eliminate TEACH Grant funding for students at those institutions. We believe that States will conduct careful and reasonable assessments of teacher preparation programs located in their States, and we also believe if a State determines a program is not effective at providing teacher preparation, students should not receive TEACH Grants to attend that program.

Regarding the recommendation that the regulations allow for professional judgment regarding TEACH Grant eligibility, there is no prohibition regarding the use of professional judgment for the TEACH Grant program, provided that all applicable regulatory requirements are met. With respect to the comment suggesting that the TEACH Grant program should mimic the Pell Grant program in annual aggregates, we note that, just as the Pell Grant program has its own annual aggregates, the TEACH Grant program has its own statutory annual award limits that must

be adhered to. The HEA provides that a undergraduate or post-graduate student may receive up to \$4,000 per year, and § 686.3(a) provides that an undergraduate or post-baccalaureate student may receive the equivalent of up to four Scheduled Awards during the period required for completion of the first undergraduate baccalaureate program of study and the first post-baccalaureate program of study combined. For graduate students, the HEA provides up to \$4,000 per year, and § 686.3(b) stipulates that a graduate student may receive the equivalent of up to two Scheduled Awards during the period required for the completion of the TEACH Grant-eligible master’s degree program of study.

Regarding the comment requesting a link to the TEACH Grant program via the *studentloans.gov* Web site, we do not believe that adding a link to the *studentloans.gov* Web site for TEACH Grants would be helpful, and could in fact be confusing. This Web site is specific to loans, not grants. Only if a student does not fulfill the Agreement to Serve is the TEACH Grant converted to a Direct Unsubsidized Loan. The Web site already includes a link to the *teach-ats.ed.gov* Web site, where students can complete TEACH Grant counseling and the Agreement to Serve. The Department does provide information about the TEACH Grant program on its *studentaid.ed.gov* Web site.

We disagree with the comment that the Department should focus specifically on issues or deficiencies with the TEACH Grant program and not connect any issues or deficiencies to reporting of teacher preparation programs under title II. The regulations are intended to improve the TEACH Grant program, in part, by operationalizing the definition of a high-quality teacher preparation program by connecting the definition to the ratings of teacher preparation programs under the title II reporting system. The regulations are not meant to address specific TEACH Grant program issues or program deficiencies.

We decline to adopt the suggestion that an at-risk teacher preparation program should be given the opportunity and support to improve before any consequences, including those regarding TEACH Grants, are imposed. The HEA specifies that TEACH Grants may only be provided to high-quality teacher preparation programs, and we do not believe that a program identified as being at-risk should be considered a high-quality teacher preparation program. With respect to the comment that institutions in the specific commenter’s State will

remove themselves from participation in the TEACH Grant program rather than pursue high-stakes Federal requirements, we note that, while we cannot prevent institutions from ending their participation in the program, we believe that institutions understand the need for providing TEACH Grants to eligible students and that institutions will continue to try to meet that need. Additionally, we note that all institutions that enroll students receiving Federal financial assistance are required to submit an annual IRC under section 205(a) of the HEA, and that all States that receive funds under the HEA must submit an annual SRC. These provisions apply whether or not an institution participates in the TEACH Grant program.

We agree with the commenters who recommended avoiding specific carve-outs for potential mathematics and science teachers. As discussed under the section titled “TEACH Grant-eligible STEM program,” we have removed the TEACH Grant-eligible STEM program definition from § 686.2 and deleted the term where it appeared elsewhere in § 686.

Changes: None.

§ 686.42 Discharge of Agreement To Serve

Comments: None.

Discussion: Section 686.42(b) describes the procedure we use to determine a TEACH Grant recipient’s eligibility for discharge of an agreement to serve based on the recipient’s total and permanent disability. We intend this procedure to mirror the procedure outlined in § 685.213 which governs discharge of Direct Loans. We are making a change to § 686.42(b) to make the discharge procedures for TEACH Grants more consistent with the Direct Loan discharge procedures. Specifically, § 685.213(b)(7)(ii)(C) provides that the Secretary does not require a borrower to pay interest on a Direct Loan for the period from the date the loan was discharged until the date the borrower’s obligation to repay the loan was reinstated. This idea was not clearly stated in § 686.42(b). We have added new § 686.42(b)(4) to explicitly state that if the TEACH Grant of a recipient whose TEACH Grant agreement to serve is reinstated is later converted to a Direct Unsubsidized Stafford Loan, the recipient will not be required to pay interest that accrued on the TEACH Grant disbursements from the date the agreement to serve was discharged until the date the agreement to serve was reinstated. Similarly, § 685.213(b)(7)(iii) describes the information that the Secretary’s notification to a borrower in

the event of reinstatement of the loan will include. We have amended § 686.42(b)(3) to make the TEACH Grant regulations more consistent with the Direct Loan regulations. Specifically, we removed proposed § 686.42(b)(3)(iii), which provided that interest accrual would resume on TEACH Grant disbursements made prior to the date of discharge if the agreement was reinstated.

Changes: We have removed proposed § 686.42(b)(3)(iii) and added a new § 686.42(b)(4) to more clearly describe that, if the TEACH Grant of a recipient whose TEACH Grant agreement to serve is reinstated is later converted to a Direct Unsubsidized Stafford Loan, the recipient will not be required to pay interest that accrued on the TEACH Grant disbursements from the date the agreement to serve was discharged until the date the agreement to serve was reinstated. This change also makes the TEACH Grant regulation related to total and permanent disability more consistent with the Direct Loan discharge procedures.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is “significant” and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an “economically significant” rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles stated in the Executive order.

This final regulatory action is a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed these regulations under Executive Order 13563, which supplements and

explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We are issuing these final regulations only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that these regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, or tribal governments in the exercise of their governmental functions.

In this RIA we discuss the need for regulatory action, the potential costs and benefits, net budget impacts, assumptions, limitations, and data sources, as well as regulatory alternatives we considered. Although the majority of the costs related to

information collection are discussed within this RIA, elsewhere in this document under Paperwork Reduction Act of 1995, we also identify and further explain burdens specifically associated with information collection requirements.

1. Need for Regulatory Action

Recent international assessments of student achievement have revealed that students in the United States are significantly behind students in other countries in science, reading, and mathematics.⁵⁴ Although many factors influence student achievement, a large body of research has used value-added modeling to demonstrate that teacher quality is the largest in-school factor affecting student achievement.⁵⁵ We use “value-added” modeling and related terms to refer to statistical methods that use changes in the academic achievement of students over time to isolate and estimate the effect of particular factors, such as family, school, or teachers, on changes in student achievement.⁵⁶ One study found that the difference between having a teacher who performed at a level one standard deviation below the mean and a teacher who performed at a level one standard deviation above the mean was equivalent to student learning gains of a full year’s worth of knowledge.⁵⁷

A number of factors are associated with teacher quality, including academic content knowledge, in-service training, and years of experience, but researchers and policymakers have begun to examine whether student achievement discrepancies can be

⁵⁴ Kelly, D., Xie, H., Nord, C.W., Jenkins, F., Chan, J.Y., Kastberg, D. (2013). Performance of U.S. 15-Year-Old Students in Mathematics, Science, and Reading Literacy in an International Context: First Look at PISA 2012 (NCES 2014–024). Retrieved from U.S. Department of Education, National Center for Education Statistics Web site: <http://nces.ed.gov/pubs2014/2014024rev.pdf>.

⁵⁵ Sanders, W., Rivers, J.C. (1996). *Cumulative and Residual Effects of Teachers on Future Student Academic Achievement*. Retrieved from University of Tennessee, Value-Added Research and Assessment Center; Rivkin, S., Hanushek, E., & Kane, T. (2005). Teachers, Schools, and Academic Achievement. *Econometrica*, 417–458; Rockoff, J. (2004). The Impact of Individual Teachers on Student Achievement: Evidence from Panel Data. *American Economic Review*, 94(2), 247–252.

⁵⁶ For more information on approaches to value-added modeling, see also: Braun, H. (2005). Using Student Progress to Evaluate Teachers: A Primer on Value-Added Models. Retrieved from <http://files.eric.ed.gov/fulltext/ED529977.pdf>; Sanders, W.J. (2006). Comparisons Among Various Educational Assessment Value-Added Models, Power of Two—National Value-Added Conference, Battelle for Kids, Columbus, OH. SAS, Inc.

⁵⁷ E. Hanushek. (1992). The Trade-Off between Child Quantity and Quality. *Journal of Political Economy*, 100(1), 84–117.

explained by differences in the preparation their teachers received before entering the classroom.⁵⁸ An influential study on this topic found that the effectiveness of teachers in public schools in New York City who were prepared through different teacher preparation programs varied in statistically significant ways, as the student growth found using value-added measures shows.⁵⁹

Subsequent studies have examined the value-added scores of teachers prepared through different teacher preparation programs in Missouri, Louisiana, North Carolina, Tennessee, and Washington.⁶⁰ Many of these studies have found statistically significant differences between teachers prepared at different preparation programs. For example, State officials in Tennessee and Louisiana have worked with researchers to examine whether student achievement could be used to inform teacher preparation program accountability. After controlling for observable differences in students, researchers in Tennessee found that the most effective teacher preparation programs in that State produced graduates who were two to three times more likely than other novice teachers to be in the top quintile of teachers in a particular subject area, as measured by increases in the achievement of their students, with the least-effective programs producing teachers who were equally likely to be in the bottom quintile.⁶¹ Analyses based on Louisiana data on student growth linked to the programs that prepared students' teachers found some statistically

significant differences in teacher effectiveness.⁶² Although the study's sample size was small, three teacher preparation programs produced novice teachers who appeared, on average, to be as effective as teachers with at least two years of experience, based on growth in student achievement in four or more content areas.⁶³ A study analyzing differences between teacher preparation programs in Washington based on the value-added scores of their graduates also found a few statistically significant differences, which the authors argued were educationally meaningful.⁶⁴ In mathematics, the average difference between teachers from the highest performing program and the lowest performing program was approximately 1.5 times the difference in performance between students eligible for free or reduced-price lunches and those who are not, while in reading the average difference was 2.3 times larger.⁶⁵

In contrast to these findings, Koedel, et al. found very small differences in effectiveness between teachers prepared at different programs in Missouri.⁶⁶ The vast majority of variation in teacher effectiveness was within programs, instead of between programs.⁶⁷ However, the authors noted that the lack of variation between programs in Missouri could reflect a lack of competitive pressure to spur innovation within traditional teacher preparation programs.⁶⁸ A robust evaluation system that included outcomes could spur innovation and increase differentiation between teacher preparation programs.⁶⁹

We acknowledge that there is debate in the research community about the specifications that should be used when conducting value-added analyses of the effectiveness of teachers prepared through different preparation

programs,⁷⁰ but also recognize that the field is moving in the direction of weighting value-added analyses in assessments of teacher preparation program quality.

Thus, despite the methodological debate in the research community, CAEP has developed new standards that require, among other measures, evidence that students completing a teacher preparation program positively impact student learning.⁷¹ The new standards are currently voluntary for the more than 900 education preparation providers who participate in the education preparation accreditation system. Participating institutions account for nearly 60 percent of the providers of educator preparation in the United States, and their enrollments account for nearly two-thirds of newly prepared teachers. The new CAEP standards will be required beginning in 2016.⁷² The standards are an indication that the effectiveness ratings of teachers trained through teacher preparation programs are increasingly being used as a way to evaluate teacher preparation program performance. The research on teacher preparation program effectiveness is relevant to the elementary and secondary schools that rely on teacher preparation programs to recruit and select talented individuals and prepare them to become future teachers. In 2011–2012 (the most recent year for which data are available), 203,701 individuals completed either a traditional teacher preparation program or an alternative route program. The National Center for Education Statistics (NCES) projects that by 2020, public and private schools will need to hire as many as 362,000 teachers each year due to teacher retirement and attrition and increased student enrollment.⁷³ In order to meet the needs of public and private schools, States may have to expand traditional and alternative route

⁵⁸ D. Harris & T. Sass. (2011). Teacher Training, Teacher Quality, and Student Achievement. *Journal of Public Economics*, 95(7–8), 798–812; D. Aaronson, L. Barrow, & W. Sanders. (2007). Teachers and Student Achievement in the Chicago Public High Schools. *Journal of Labor Economics*, 25(1), 95–135; D. Boyd, H. Lankford, S. Loeb, J. Rockoff, & Wyckoff, J. (2008). The Narrowing Gap in New York City Teacher Qualifications and Its Implications for Student Achievement in High-Poverty Schools. *Journal of Policy Analysis and Management*, 27(4), 793–818.

⁵⁹ D. Boyd, P. Grossman, H. Lankford, S. Loeb, & J. Wyckoff (2009). "Teacher Preparation and Student Achievement." *Education Evaluation and Policy Analysis*, 31(4): 416–440.

⁶⁰ Koedel, C., Parsons, E., Podgursky, M., & Ehlert, M. (2015). Teacher Preparation Programs and Teacher Quality: Are There Real Differences Across Programs? *Education Finance and Policy*, 10(4), 508–534.; Campbell, S., Henry, G., Patterson, K., Yi, P. (2011). *Teacher Preparation Program Effectiveness Report*. Carolina Institute for Public Policy; Goldhaber, D., & Liddle, S. (2013). The Gateway to the Profession: Assessing Teacher Preparation Programs Based on Student Achievement. *Economics of Education Review*, 34, 29–44.

⁶¹ Tennessee Higher Education Commission. Report Card on the Effectiveness of Teacher Training Programs, 2010.

⁶² Gansle, K., Noell, G., Knox, R.M., Schafer, M.J. (2010). *Value Added Assessment of Teacher Preparation Programs in Louisiana: 2007–2008 TO 2009–2010 Overview of 2010–11 Results*. Retrieved from Louisiana Board of Regents.

⁶³ Ibid.

⁶⁴ Goldhaber, D., & Liddle, S. (2013). The Gateway to the Profession: Assessing Teacher Preparation Programs Based on Student Achievement. *Economics of Education Review*, 34, 29–44.

⁶⁵ Ibid. 1.5 times the difference between students eligible for free or reduced price lunch is approximately 12 percent of a standard deviation, while 2.3 times the difference is approximately 19 percent of a standard deviation.

⁶⁶ Koedel, C., Parsons, E., Podgursky, M., & Ehlert, M. (2015). Teacher Preparation Programs and Teacher Quality: Are There Real Differences Across Programs? *Education Finance and Policy*, 10(4), 508–534.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ For a discussion of issues and considerations related to using school fixed effects models to compare the effectiveness of teachers from different teacher preparation programs who are working in the same school, see Lockwood, J.R., McCaffrey, D., Mihaly, K., Sass, T. (2012). *Where You Come From or Where You Go? Distinguishing Between School Quality and the Effectiveness of Teacher Preparation Program Graduates*. (Working Paper 63). Retrieved from National Center for Analysis of Longitudinal Data in Education Research.

⁷¹ CAEP 2013 Accreditation Standards. (2013). Retrieved from http://caepnet.files.wordpress.com/2013/09/final_board_approved1.

⁷² Teacher Preparation: Ensuring a Quality Teacher in Every Classroom. Hearing before the Senate Committee on Health, Education, Labor and Pensions. 113th Congress. 113th Cong. (2014)(Statement by Mary Brabeck).

⁷³ U.S. Department of Education (2015). Table 208.20. *Digest of Education Statistics, 2014*. Retrieved from National Center for Education Statistics.

programs to prepare more teachers, find new ways to recruit and train qualified individuals, or reduce the need for novice teachers by reducing attrition or developing different staffing models. Better information on the quality of teacher preparation programs will help States and LEAs make sound staffing decisions.

Despite research suggesting that the academic achievement of students taught by graduates of different teacher preparation programs may vary with regard to their teacher's program, analyses linking student achievement to teacher preparation programs have not been conducted and made available publicly for teacher preparation programs in all States. Congress has recognized the value of assessing and reporting on the quality of teacher preparation, and requires States and IHEs to report detailed information about the quality of teacher preparation programs in the State under the HEA. When reauthorizing the title II reporting system, members of Congress noted a goal of having teacher preparation programs explore ways to assess the impact of their programs' graduates on student academic achievement. In fact, the report accompanying the House Bill (H. Rep. 110–500) included the following statement, “[i]t is the intent of the Committee that teacher preparation programs, both traditional and those providing alternative routes to State certification, should strive to increase the quality of individuals graduating from their programs with the goal of exploring ways to assess the impact of such programs on student's academic achievement.”

Moreover, in roundtable discussions and negotiated rulemaking sessions held by the Department, stakeholders repeatedly expressed concern that the current title II reporting system provides little meaningful data on the quality of teacher preparation programs or the impact of those programs' graduates on student achievement. The recent GAO report on teacher preparation programs noted that half or more of the States and teacher preparation programs surveyed said the current title II data collection was not useful to assessing their programs; and none of the surveyed school district staff said they used the data.⁷⁴

Currently, States must annually calculate and report data on more than 400 data elements, and IHEs must report on more than 150 elements. While some information requested in the current reporting system is statutorily required, other elements—such as whether the

IHE requires a personality test prior to admission—are not required by statute and do not provide information that is particularly useful to the public. Thus, stakeholders stressed at the negotiated rulemaking sessions that the current system is too focused on inputs and that outcome-based measures would provide more meaningful information.

Similarly, even some of the statutorily-required data elements in the current reporting system do not provide meaningful information on program performance and how program graduates are likely to perform in a classroom. For example, the HEA requires IHEs to report both scaled scores on licensure tests and pass rates for students who complete their teacher preparation programs. Yet, research provides mixed findings on the relationship between licensure test scores and teacher effectiveness.⁷⁵ This may be because most licensure tests were designed to measure the knowledge and skills of prospective teachers but not necessarily to predict classroom effectiveness.⁷⁶ The predictive value of licensure exams is further eroded by the significant variation in State pass/cut scores on these exams, with many States setting pass scores at a very low level. The National Council on Teacher Quality found that every State except Massachusetts sets its pass/cut scores on content assessments for elementary school teachers below the average score for all test takers, and most States set pass/cut scores at the 16th percentile or lower.⁷⁷ Further, even with low pass/cut scores, some States allow teacher candidates to take licensure exams multiple times. Some States also permit IHEs to exclude students who have completed all program coursework but have not passed licensure exams when

the IHEs report pass rates on these exams for individuals who have completed teacher preparation programs under the current title II reporting system. This may explain, in part, why States and IHEs have reported over the past three years a consistently high average pass rate on licensure or certification exams ranging between 95 and 96 percent for individuals who completed traditional teacher preparation programs in the 2009–10 academic year.⁷⁸

Thus, while the current title II reporting system produces detailed and voluminous data about teacher preparation programs, the data do not convey a clear picture of program quality as measured by how program graduates will perform in a classroom. This lack of meaningful data prevents school districts, principals, and prospective teacher candidates from making informed choices, creating a market failure due to imperfect information.

On the demand side, principals and school districts lack information about the past performance of teachers from different teacher preparation programs and may rely on inaccurate assumptions about the quality of teacher preparation programs when recruiting and hiring novice teachers. An accountability system that provides information about how teacher preparation program graduates are likely to perform in a classroom and how likely they are to stay in the classroom will be valuable to school districts and principals seeking to efficiently recruit, hire, train, and retain high-quality educators. Such a system can help to reduce teacher attrition, a particularly important problem because many novice teachers do not remain in the profession, with more than a quarter of novice teachers leaving the teaching profession altogether within three years of becoming classroom teachers.⁷⁹ High teacher turnover rates are problematic because research has demonstrated that, on average, student achievement increases considerably with more years of teacher experience in the first three through five years of teaching.⁸⁰

⁷⁸ Secretary's Tenth Report.

⁷⁹ Ingersoll, R. (2003). *Is There Really a Teacher Shortage?* Retrieved from University of Washington Center for the Study of Teaching and Policy Web site: <http://depts.washington.edu/ctpmail/PDFs/Shortage-RI-09-2003.pdf>.

⁸⁰ Ferguson, R.F. & Ladd, H.F. (1996). How and why money matters: An analysis of Alabama schools. In H.F. Ladd (Ed.), *Holding schools accountable: Performance-based education reform* (pp. 265–298). Washington, DC: The Brookings Institution; Hanushek, E., Kain, J., O'Brien, D., & Rivkin, S. (2005). *The Market for Teacher Quality* (Working Paper no. 11154). Retrieved from National

⁷⁵ Clotfelter, C., Ladd, H., & Vigdor, J. (2010). Teacher Credentials and Student Achievement: Longitudinal Analysis with Student Fixed Effects. *Economics of Education Review*, 26(6), 673–682; Goldhaber, D. (2007). Everyone's Doing It, But What Does Teacher Testing Tell Us about Teacher Effectiveness? *The Journal of Human Resources*, 42(4), 765–794; Buddin, R., & Zamarro, G. (2009). Teacher Qualifications and Student Achievement in Urban Elementary Schools. *Journal of Urban Economics*, 66, 103–115.

⁷⁶ Goldhaber, D. (2007). Everyone's Doing It, But What Does Teacher Testing Tell Us about Teacher Effectiveness? *The Journal of Human Resources*, 42(4), 765–794.

⁷⁷ National Council on Teacher Quality, State Teacher Policy Yearbook, 2011. Washington, DC: National Council on Teacher Quality (2011). For more on licensure tests, see U.S. Department of Education, Office of Planning, Evaluation, and Policy Development, Policy and Program Studies Service (2010), Recent Trends in Mean Scores and Characteristics of Test-Takers on Praxis II Licensure Tests. Washington, DC: U.S. Department of Education.

⁷⁴ GAO at 26.

On the supply side, when considering which program to attend, prospective teachers lack comparative information about the placement rates and effectiveness of a program's graduates. Teacher candidates may enroll in a program without the benefit of information on employment rates post-graduation, employer and graduate feedback on program quality, and, most importantly, without understanding how well the program prepared prospective teachers to be effective in the classroom. NCES data indicate that 66 percent of certified teachers who received their bachelor's degree in 2008 took out loans to finance their undergraduate education. These teachers borrowed an average of \$22,905.⁸¹ The average base salary for full-time teachers with a bachelor's degree in their first year of teaching in public elementary and secondary schools is \$38,490.⁸² Thus, two-thirds of prospective teacher candidates may incur debt equivalent to 60 percent of their starting salary in order to attend teacher preparation programs without access to reliable indicators of how well these programs will prepare them for classroom teaching or help them find a teaching position in their chosen field. A better accountability system with more meaningful information will enable prospective teachers to make more informed choices while also enabling and encouraging States, IHEs, and alternative route providers to monitor and continuously improve the quality of their teacher preparation programs.

The lack of meaningful data also prevents States from restricting program credentials to programs with the demonstrated ability to prepare more effective teachers, or accurately identifying low-performing and at-risk teacher preparation programs and helping these programs improve. Not surprisingly, States have not identified many programs as low-performing or at-

risk based on the data currently collected. In the latest title II reporting requirement submissions, twenty-one States did not classify any teacher preparation programs as low-performing or at-risk.⁸³ Of the programs identified by States as low-performing or at-risk, 28 were based in IHEs that participate in the Teacher Education Assistance for College and Higher Education (TEACH) Grant program. The GAO also found that some States were not assessing whether programs in their State were low performing at all.⁸⁴ Since the beginning of Title II, HEA reporting in 2001, 29 States and territories have never identified a single IHE with an at-risk or low-performing teacher preparation program.⁸⁵ Under the final regulations, however, every State will collect and report more meaningful information about teacher preparation program performance which will enable them to target scarce public funding more efficiently through direct support to more effective teacher preparation programs and State financial aid to prospective students attending those programs.

Similarly, under the current title II reporting system, the Federal government is unable to ensure that financial assistance for prospective teachers is used to help students attend programs with the best record for producing effective classroom teachers. The final regulations help accomplish this by ensuring that program performance information is available for all teacher preparation programs in all States and by restricting eligibility for Federal TEACH Grants to programs that are rated "effective."

Most importantly, elementary and secondary school students, including those students in high-need schools and communities who are disproportionately taught by recent teacher preparation program graduates, will be the ultimate beneficiaries of an improved teacher preparation program accountability system.⁸⁶ Such a system

better focuses State and Federal resources on promising teacher preparation programs while informing teacher candidates and potential employers about high-performing teacher preparation programs and enabling States to more effectively identify and improve low-performing teacher preparation programs.

Recognizing the benefits of improved information on teacher preparation program quality and associated accountability, several States have already developed and implemented systems that map teacher effectiveness data back to teacher preparation programs. The regulations help ensure that all States generate useful data that are accessible to the public to support efforts to improve teacher preparation programs.

Brief Summary of the Regulations

The Department's plan to improve teacher preparation has three core elements: (1) Reduce the reporting burden on IHEs while encouraging States to make use of data on teacher effectiveness to build an effective teacher preparation accountability system driven by meaningful indicators of quality (title II accountability system); (2) reform targeted financial aid for students preparing to become teachers by directing scholarship aid to students attending higher-performing teacher preparation programs (TEACH Grants); and (3) provide more support for IHEs that prepare high-quality teachers.

The regulations address the first two elements of this plan. Improving institutional and State reporting and State accountability builds on the work that States like Louisiana and Tennessee have already started, as well as work that is underway in States receiving grants under Phase One or Two of the Race to the Top Fund.⁸⁷ All of these States have, will soon have, or plan to have statewide systems that track the academic growth of a teacher's students by the teacher preparation program from which the teacher graduated and, as a result, will be better able to identify the teacher preparation programs that are producing effective teachers and the policies and programs that need to be strengthened to scale those effects.

Consistent with feedback the Department has received from stakeholders, under the regulations

Data in Education Research at www.cowenstitute.com/wp-content/uploads/2011/01/1001469-calder-working-paper-52-1.pdf.

⁸⁷ The applications and Scopes of Work for States that received a grant under Phase One or Two of the Race to the Top Fund are available online at: <http://www2.ed.gov/programs/racetothetop/awards.html>.

Bureau for Economic Research Web site: www.nber.org/papers/w11154; Gordon, R., Kane, T., Staiger, D. (2006). Identifying Effective Teachers Using Performance on the Job; Clotfelter, C., Ladd, H., & Vigdor, J. (2007). How and Why Do Teacher Credentials Matter for Student Achievement? (Working Paper No. 2). Retrieved from National Center for Analysis of Longitudinal Data in Education Research.; Kane, T., Rockoff, J., Staiger, D. (2008). What does certification tell us about teacher effectiveness? Evidence from New York City. *Economics of Education Review*, 27(6), 615–631.

⁸¹ National Center for Education Statistics (2009). *Baccalaureate and Beyond Longitudinal Study*. Washington, DC: U.S. Department of Education.

⁸² National Center for Education Statistics (2015). *Digest of Education Statistics*, 2014. Washington, DC: U.S. Department of Education (2015): Table 211.20.

⁸³ Secretary's Tenth Report.

⁸⁴ GAO at 17.

⁸⁵ Secretary's Tenth Report.

⁸⁶ Several studies have found that inexperienced teachers are far more likely to be assigned to high-poverty schools, including Boyd, D., Lankford, H., Loeb, S., Rockoff, J., & Wyckoff, J. (2008). The Narrowing Gap in New York City Teacher Qualifications and Its Implications for Student Achievement in High-Poverty Schools. *Journal of Policy Analysis and Management*, 27(4), 793–818; Clotfelter, C., Ladd, H., Vigdor, J., & Wheeler, J. (2007). High Poverty Schools and the Distribution of Teachers and Principals. *North Carolina Law Review*, 85, 1345–1379; Sass, T., Hannaway, J., Xu, Z., Figlio, D., & Feng, L. (2010). Value Added of Teachers in High-Poverty Schools and Lower-Poverty Schools (Working Paper No. 52). Retrieved from *National Center for Analysis of Longitudinal*

States must assess the quality of teacher preparation programs according to the following indicators: (1) Student learning outcomes of students taught by graduates of teacher preparation programs (as measured by aggregating learning outcomes of students taught by graduates of each teacher preparation program); (2) job placement and retention rates of these graduates (based on the number of program graduates who are hired into teaching positions and whether they stay in those positions); and (3) survey outcomes for surveys of program graduates and their employers (based on questions about whether or not graduates of each teacher preparation program are prepared to be effective classroom teachers).

The regulations will help provide meaningful information on program quality to prospective teacher candidates, school districts, States, and IHEs that administer traditional teacher preparation programs and alternative routes to State certification or licensure programs. The regulations will make data available that also can inform academic program selection, program improvement, and accountability.

During public roundtable discussions and subsequent negotiated rulemaking sessions, the Department consulted with representatives from the teacher preparation community, States, teacher preparation program students, teachers, and other stakeholders about the best way to produce more meaningful data on the quality of teacher preparation programs while also reducing the reporting burden on States and teacher preparation programs where possible. The regulations specify three types of outcomes States must use to assess teacher preparation program quality, but States retain discretion to select the most appropriate methods to collect and report these data. In order to give States and stakeholders sufficient time to develop these methods, the requirements of these regulations are implemented over several years.

2. Discussion of Costs, Benefits, and Transfers

The Department has analyzed the costs of complying with the final regulations. Due to uncertainty about the current capacity of States in some relevant areas and the considerable discretion the regulations will provide States (*e.g.*, the flexibility States would have in determining who conducts the teacher and employer surveys), we cannot evaluate the costs of implementing the regulations with absolute precision. In the NPRM, the Department estimated that the total annualized cost of these regulations

would be between \$42.0 million and \$42.1 million over ten years. However, based on public comments received, it became clear to us that this estimate created confusion. In particular, a number of commenters incorrectly interpreted this estimate as the total cost of the regulations over a ten year period. That is not correct. The estimates in the NPRM captured an annualized cost (*i.e.*, between \$42.0 million and \$42.1 million per year over the ten year period) rather than a total cost (*i.e.*, between \$42.0 million and \$42.1 million in total over ten years). In addition, these estimated costs reflected both startup and ongoing costs, so affected entities would likely see costs higher than these estimates in the first year of implementation and costs lower than these estimates in subsequent years. The Department believed that these assumptions were clearly outlined for the public in the NPRM; however, based on the nature of public comments received, we recognize that additional explanation is necessary.

The Department has reviewed the comments submitted in response to the NPRM and has revised some assumptions in response to the information we received. We discuss specific public comments, where relevant, in the appropriate sections below. In general, we do not discuss non-substantive comments.

A number of commenters expressed general concerns regarding the cost estimates included in the NPRM and indicated that implementing these regulations would cost far more than \$42.0 million over ten years. As noted above, we believe most of these comments arose from a fundamental misunderstanding of the estimates presented in the NPRM. While several commenters attempted to provide alternate cost estimates, we note that many of these estimates were unreasonably high because they included costs for activities or initiatives that are not required by the regulations. For instance, in one alternate estimate (submitted jointly by the California Department of Education, the California Commission on Teacher Credentialing, and the California State Board of Education) cited by a number of commenters, over 95 percent of the costs outlined were due to non-required activities such as dramatically expanding State standardized assessments to all grades and subjects or completing time- and cost-intensive teacher evaluations of all teachers in the State in every year. Nonetheless, we have taken portions of those estimates into account where appropriate (*i.e.*, where the alternate estimates reflect

actual requirements of the final regulations) in revising our assumptions.

In addition, some commenters argued that our initial estimates were too low because they did not include costs for activities not directly required by the regulations. These activities included making changes in State laws where those laws prohibited the sharing of data between State entities responsible for teacher certification and the State educational agency. Upon reviewing these comments, we have declined to include estimates of these potential costs. Such costs are difficult to quantify, as it is unclear how many States would be affected, how extensive the needed changes would be, or how much time and resources would be required on the part of State legislatures. Also, we believe that many States removed potential barriers in order to receive ESEA flexibility prior to the passage of ESSA, further minimizing the potential cost of legislative changes. To the extent that States do experience costs associated with these actions, or other actions not specifically required by the regulations and therefore not outlined below (*e.g.*, costs associated with including more than the minimum number of participants in the consultation process described in § 612.4(c)), our estimates will not account for those costs.

We have also updated our estimates using the most recently available wage rates from the Bureau of Labor Statistics. We have also updated our estimates of the number of teacher preparation programs and teacher preparation entities using the most recent data submitted to the Department in the 2015 title II data collection. While no commenters specifically addressed these issues, we believe that these updates will provide the most reasonable estimate of costs.

Based on revised assumptions, the Department estimates that the total annualized cost of the regulations will be between \$27.5 million and \$27.7 million (see the Accounting Statement section of this document for further detail). This estimate is significantly lower than the total annualized cost estimated in the proposed rule. The largest driver of this decrease is the increased flexibility provided to States under § 612.5(a)(1)(ii), as explained below. To provide additional context, we provide estimates in Table 3 for IHEs, States, and LEAs in Year 1 and Year 5. These estimates are not annualized or calculated on a net present value basis, but instead represent real dollar estimates.

TABLE 4—ESTIMATED COSTS BY ENTITY TYPE IN YEARS 1 AND 5

	Year 1	Year 5
IHE	\$4,800,050	\$4,415,930
State	\$24,077,040	\$16,111,570
LEA	\$5,859,820	\$5,859,820
Total	\$34,736,910	\$26,387,320

Relative to these costs, the major benefit of the requirements, taken as a whole, will be better publicly available information on the effectiveness of teacher preparation programs that can be used by prospective students when choosing programs to attend; employers in selecting teacher preparation program graduates to recruit, train, and hire; States in making funding decisions; and teacher preparation programs themselves in seeking to improve.

The following is a detailed analysis of the estimated costs of implementing the specific requirements, including the costs of complying with paperwork-related requirements, followed by a discussion of the anticipated benefits.⁸⁸ The burden hours of implementing specific paperwork-related requirements are also shown in the tables in the Paperwork Reduction Act section of this document.

Title II Accountability System (HEA Title II Regulations)

Section 205(a) of the HEA requires that each IHE that provides a teacher preparation program leading to State certification or licensure report on a statutorily enumerated series of data elements for the programs it provides. Section 205(b) of the HEA requires that each State that receives funds under the HEA provide to the Secretary and make widely available to the public information on the quality of traditional and alternative route teacher preparation programs that includes not less than the statutorily enumerated series of data elements it provides. The State must do so in a uniform and comprehensible manner, conforming with definitions and methods established by the Secretary. Section 205(c) of the HEA directs the Secretary to prescribe regulations to ensure the validity, reliability, accuracy, and integrity of the data submitted. Section 206(b) requires that IHEs provide assurance to the Secretary that their teacher training programs respond to the

needs of LEAs, be closely linked with the instructional decisions novice teachers confront in the classroom, and prepare candidates to work with diverse populations and in urban and rural settings, as applicable. Consistent with these statutory provisions, the Department is issuing regulations to ensure that the data reported by IHEs and States is accurate. The following sections provide a detailed examination of the costs associated with each of the regulatory provisions.

Institutional Report Card Reporting Requirements

The regulations require that beginning on April 1, 2018, and annually thereafter, each IHE that conducts a traditional teacher preparation program or alternative route to State certification or licensure program and enrolls students receiving title IV, HEA funds, report to the State on the quality of its program using an IRC prescribed by the Secretary.

Under the current IRC, IHEs typically report at the entity level, rather than the program level, such that an IHE that administers multiple teacher preparation programs typically gathers data on each of those programs, aggregates the data, and reports the required information as a single teacher preparation entity on a single report card. By contrast, the regulations generally require that States report on program performance at the individual program level. The Department originally estimated that the initial burden for each IHE to adjust its recordkeeping systems in order to report the required data separately for each of its teacher preparation programs would be four hours per IHE. Numerous commenters argued that this estimate was low. Several commenters argued that initial set-up would take 8 to 12 hours, while others argued that it would take 20 to 40 hours per IHE. While we recognize that the amount of time it will take to initially adjust their recordkeeping systems will vary, we believe that the estimates in excess of 20 hours are too high, given that IHEs will only be adjusting the way in which they report data, rather than collecting new data. However, the Department found arguments in favor of both 8 hours and 12 hours to be compelling and reasonable. We believe that eight hours is a reasonable estimate for how long it will take to complete this process generally; and for institutions with greater levels of oversight, review, or complexity, this process may take longer. Without additional information about the specific levels of review and oversight at individual institutions, we

assume that the amount of time it will take institutions to complete this work will be normally distributed between 8 and 12 hours, with a national average of 10 hours per institution. Therefore, the Department has upwardly revised its initial estimate of four hours to ten hours. In the most recent year for which data are available, 1,490 IHEs submitted IRCs to the Department, for an estimated one-time cost of \$384,120.⁸⁹

One commenter argued that institutions would have to make costly updates and upgrades to their existing information technology (IT) platforms in order to generate the required new reports. However, given that institutions will not be required to generate reports on any new data elements, but only disaggregate the data already being collected by program, and that we include cost estimates for making the necessary changes to their existing systems in order to generate reports in that way, we do not believe it would be appropriate to include additional costs associated with large IT purchases in this cost estimate.

The Department further estimated that each of the 1,490 IHEs would need to spend 78 hours to collect the data elements required for the IRC for its teacher preparation programs. Several commenters argued that it would take longer than 78 hours to collect the data elements required for the IRC each year. The Department reviewed its original estimates in light of these comments and the new requirement for IHEs to identify, in their IRCs, whether each program met the definition of a teacher preparation program provided through distance education. Pursuant to that review, the Department has increased its initial estimate to 80 hours, for an annual cost of \$3,072,980.

We originally estimated that entering the required information into the information collection instrument would take 13.65 hours per entity. We currently estimate that, on average, it takes one hour for institutions to enter the data for the current IRC. The Department believed that it would take institutions approximately as long to complete the report for each program as it does currently for the entire entity. As such, the regulations would result in an additional burden of the time to complete all individual program level

⁸⁸ Unless otherwise specified, all hourly wage estimates for particular occupation categories were taken from the May 2014 National Occupational Employment and Wage Estimates for Federal, State, and local government published by the Department of Labor's Bureau of Labor Statistics and available online at www.bls.gov/oes/current/999001.htm.

⁸⁹ Unless otherwise specified, for paperwork reporting requirements, we use a wage rate of \$25.78, which is based on a weighted national average hourly wage for full-time Federal, State and local government workers in office and administrative support (75 percent) and managerial occupations (25 percent), as reported by the Bureau of Labor Statistics in the National Occupational Employment and Wage Estimates, May 2014.

reports minus the current entity time burden. In the NPRM, this estimate was based on an average of 14.65 teacher preparation programs per entity—22,312 IHE-based programs divided by 1,522 IHEs. Given that entities are already taking approximately one hour to complete the report, we estimated the time burden associated with this regulation at 13.65 hours (14.65 hours to complete individual program level reports minus one hour of current entity time burden). Based on the most recent data available, we now estimate an average of 16.40 teacher preparation programs per entity—24,430 IHE-based programs divided by 1,490 IHEs. This results in a total cost of \$591,550 to the 1,490 IHEs. One commenter stated that it would take a total of 140 hours to enter the required information into the information collection instrument. However, it appears that this estimate is based on an assumption that it would require 10 hours of data entry for each program at an institution. Given the number of data elements involved and our understanding of how long institutions have historically taken to complete data entry tasks, we believe this estimate is high, and that our revised estimate, as described above, is appropriate.

The regulations also require that each IHE provide the information reported on the IRC to the general public by prominently and promptly posting the IRC on the IHE's Web site, and, if applicable, on the teacher preparation portion of the Web site. We originally estimated that each IHE would require 30 minutes to post the IRC. One commenter stated that this estimate was reasonable given the tasks involved, while two commenters argued that this was an underestimate. One of these commenters stated that posting data on the institutional Web site often involved multiple staff, which was not captured in the Department's initial estimate. Another commenter argued that this estimate did not take into account time for data verification, drafting of summary text to accompany the document, or ensuring compliance with the Americans with Disabilities Act (ADA). Given that institutions will simply be posting on their Web site the final IRC that was submitted to the Department, we assume that the document has already been reviewed by all necessary parties and that all included data have been verified prior to being submitted to the Department. As such, the requirement to post the IRC to the Web site should not incur any additional levels of review or data validation. Regarding ADA compliance,

we assume the commenter was referring to the broad set of statutory requirements regarding accessibility of communications by entities receiving Federal funding. In general, it is our belief that the vast majority of institutions, when developing materials for public dissemination, already ensure that such materials meet government- and industry-recognized standards for accessibility. To the extent that they do not already do so, nothing in the regulations imposes additional accessibility requirements beyond those in the Rehabilitation Act of 1973, as amended, or the ADA. As such, while there may be accessibility-related work associated with the preparation of these documents that is not already within the standard procedures of the institution, such work is not a burden created by the regulations. Thus, we believe our initial estimate of 30 minutes is appropriate, for an annual cumulative cost of \$19,210. The estimated total annual cost to IHEs to meet the requirements concerning IRCs would be \$3,991,030.

We note that several commenters, in response to the Supplemental NPRM, argued that institutions would experience increased compliance costs given new provisions related to teacher preparation programs provided through distance education. However, nothing in the Supplemental NPRM proposed changes to institutional burden under § 612.3. Under the final regulations, the only increased burden on IHEs with respect to teacher preparation programs provided through distance education is that they identify whether each of the teacher preparation programs they offer meet the definition in § 612.2. We believe that the additional two hours estimated for data collection above the Department's initial estimate provides more than enough time for IHEs to meet this requirement. We do not estimate additional compliance costs to accrue to IHEs as a result of provisions in this regulation related to teacher preparation programs provided through distance education.

State Report Card Reporting Requirements

Section 205(b) of the HEA requires each State that receives funds under the HEA to report annually to the Secretary on the quality of teacher preparation in the State, both for traditional teacher preparation programs and for alternative routes to State certification or licensure programs, and to make this report available to the general public. In the NPRM, the Department estimated that the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United

States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States, which include the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau would each need 235 hours to report the data required under the SRC.

In response to the original NPRM, two commenters argued that this estimate was too low. Specifically, one commenter stated that, based on the amount of time their State has historically devoted to reporting the data in the SRC, it would take approximately 372.5 hours to complete. We note that not all States will be able to complete the reporting requirements in 235 hours and that some States, particularly those with more complex systems or more institutions, will take much longer. We also note that the State identified by the commenter in developing the 372.5 hour estimate meets both of those conditions—it uses a separate reporting structure to develop its SRC (one of only two States nationwide to do so), and has an above-average number of preparation programs. As such, it is reasonable to assume that this State would require more than the nationwide average amount of time to complete the process. Another commenter stated that the Department's estimates did not take into account the amount of time and potential staff resources needed to prepare and post the information. We note that there are many other aspects of preparing and posting the data that are not reflected in this estimate, such as collecting, verifying, and validating the data. We also note that this estimate does not take into account the time required to report on student learning outcomes, employment outcomes, or survey results. However, all of these estimates are included elsewhere in these cost estimates. We believe that, taken as a whole, all of these various elements appropriately capture the time and staff resources necessary to comply with the SRC reporting requirement.

As proposed in the Supplemental NPRM, and as described in greater detail below, in these final regulations, States will be required to report on teacher preparation programs offered through distance education that produce 25 or more certified teachers in their State. The Department estimates that the reporting on these additional programs, in conjunction with the reduction in the total number of teacher preparation programs from our initial estimates in the NPRM, will result in a net increase in the time necessary to report the data required in the SRC from the 235 hours

estimated in the NPRM to 243 hours, for an annual cost of \$369,610.

Section 612.4(a)(2) requires that States post the SRC on the State's Web site. Because all States already have at least one Web site in operation, we originally estimated that posting the SRC on an existing Web site would require no more than half an hour at a cost of \$25.78 per hour. Two commenters suggested that this estimate was too low. One commenter argued that the Department's initial estimate did not take into account time to create Web-ready materials or to address technical errors. In general, the regulations do not require the SRC to be posted in any specific format and we believe that it would take a State minimal time to create a file that would be compliant with the regulations by, for example, creating a PDF containing the SRC. We were unable to determine from this comment the specific technical errors that the commenter was concerned about, but believe that enough States will need less than the originally estimated 30 minutes to post the SRC so that the overall average will not be affected if a handful of States encounter technical issues. Another commenter estimated that, using its current Web reporting system, it would take approximately 450 hours to initially set up the SRC Web site with a recurring 8 hours annually to update it. However, we note that the system the commenter describes is more labor intensive and includes more data analysis than the regulations require. While we recognize the value in States' actively trying to make the SRC data more accessible and useful to the public, we cannot accurately estimate how many States will choose to do more than the regulations require, or what costs they would encounter to do so. We have therefore opted to estimate only the time and costs necessary to comply with the regulations. As such, we retain our initial estimate of 30 minutes to post the SRC. For the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Freely Associated States, which include the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau the total annual estimated cost of meeting this requirement would be \$760.

Scope of State Reporting

The costs associated with the reporting requirements in paragraphs (b) and (c) of § 612.4 are discussed in the following paragraphs. The requirements

regarding reporting of a teacher preparation program's indicators of academic content knowledge and teaching skills do not apply to the insular areas of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, the freely associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. Due to their size and limited resources and capacity in some of these areas, we believe that the cost to these insular areas of collecting and reporting data on these indicators would not be warranted.

Number of Distance Education Programs

As described in the Supplemental NPRM (81 FR 18808), the Department initially estimated that the portions of this regulation relating to reporting on teacher preparation programs offered through distance education would result in 812 additional reporting instances for States. A number of commenters acknowledged the difficulty in arriving at an accurate estimate of the number of teacher preparation programs offered through distance education that would be subject to reporting under the final regulation. However, those commenters also noted that, without a clear definition from the Department on what constitutes a teacher preparation program offered through distance education, it would be exceptionally difficult to offer an alternative estimate. No commenters provided alternate estimates. In these final regulations, the Department has adopted a definition of teacher preparation program offered through distance education. We believe that this definition is consistent with our initial estimation methodology and have no reason to adjust that estimate at this time.

Reporting of Information on Teacher Preparation Program Performance

Under § 612.4(b)(1), a State would be required to make meaningful differentiations in teacher preparation program performance using at least three performance levels—low-performing teacher preparation program, at-risk teacher preparation program, and effective teacher preparation program—based on the indicators in § 612.5, including student learning outcomes and employment outcomes for teachers in high-need schools. Because States would have the discretion to determine the weighting of these indicators, the Department assumes that States would consult with early adopter States or researchers to determine best practices for making such determinations and whether an

underlying qualitative basis should exist for these decisions. The Department originally estimated that State higher education authorities responsible for making State-level classifications of teacher preparation programs would require at least 35 hours to discuss methods for ensuring that meaningful differentiations are made in their classifications. This initial estimate also included determining what it meant for particular indicators to be included “in significant part” and what constituted “satisfactory” student learning outcomes, which are not included in the final regulations.

A number of commenters stated that 35 hours was an underestimate. Of the commenters that suggested alternative estimates, those estimates typically ranged from 60 to 70 hours (the highest estimate was 350 hours). Based on these comments, the Department believes that its original estimate would not have provided sufficient time for multiple staff to meet and discuss teacher preparation program quality in a meaningful way. As such, and given that these staff will be making decisions regarding a smaller range of issues, the Department is revising its estimate to 70 hours per State. We believe that this amount of time would be sufficient for staff to discuss and make decisions on these issues in a meaningful and purposeful way. To estimate the cost per State, we assume that the State employee or employees would likely be in a managerial position (with national average hourly earnings of \$45.58), for a total one-time cost for each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico of \$165,910.

Fair and Equitable Methods

Section 612.4(c)(1) requires States to consult with a representative group of stakeholders to determine the procedures for assessing and reporting the performance of each teacher preparation program in the State. The regulations specify that these stakeholders must include, at a minimum, representatives of leaders and faculty of traditional teacher preparation programs and alternative routes to State certification or licensure programs; students of teacher preparation programs; LEA superintendents; local school board members; elementary and secondary school leaders and instructional staff; elementary and secondary school students and their parents; IHEs that serve high proportions of low-income students or students of color, or English learners; advocates for English learners and students with disabilities; officials

of the State's standards board or other appropriate standards body; and a representative of at least one teacher preparation program provided through distance education. Because the final regulations do not prescribe any particular methods or activities, we expect that States will implement these requirements in ways that vary considerably, depending on their population and geography and any applicable State laws concerning public meetings.

Many commenters stated that their States would likely adopt methods different from those outlined below. In particular, these commenters argued that their States would include more than the minimum number of participants we used for these estimates. In general, while States may opt to do more than what is required by the regulations, for purposes of estimating the cost, we have based the estimate on what the regulations require. If States opt to include more participants or consult with them more frequently or for longer periods of time, then the costs incurred by States and the participants would be higher.

In order to estimate the cost of implementing these requirements, we assume that the average State will convene at least three meetings with at least the following representatives from required categories of stakeholders: One administrator or faculty member from a traditional teacher preparation program, one administrator or faculty member from an alternative route teacher preparation program, one student from a traditional or alternative route teacher preparation program, one teacher or other instructional staff, one representative of a small teacher preparation program, one LEA superintendent, one local school board member, one student in elementary or secondary school and one of his or her parents, one administrator or faculty member from an IHE that serves high percentages of low-income students or students of color, one representative of the interests of English learners, one representative of the interests of students with disabilities, one official from the State's standards board or other appropriate standards body, and one administrator or faculty from a teacher preparation program provided through distance education. We note that a representative of a small teacher preparation program and a representative from a teacher preparation program provided through distance education were not required stakeholders in the proposed regulations, but are included in these final regulations.

To estimate the cost of participating in these meetings for the required categories of stakeholders, we initially assumed that each meeting would require four hours of each participant's time and used the following national average hourly wages for full-time State government workers employed in these professions: Postsecondary education administrators, \$50.57 (4 stakeholders); elementary or secondary education administrators, \$50.97 (1 stakeholder); postsecondary teachers, \$45.78 (1 stakeholder); primary, secondary, and special education school teachers, \$41.66 (1 stakeholder). For the official from the State's standards board or other appropriate standards body, we used the national average hourly earnings of \$59.32 for chief executives employed by State governments. For the representatives of the interests of students who are English learners and students with disabilities, we used the national average hourly earnings of \$62.64 for lawyers in educational services (including private, State, and local government schools). For the opportunity cost to the representatives of elementary and secondary school students, we used the Federal minimum wage of \$7.25 per hour and the average hourly wage for all workers of \$22.71. These wage rates could represent either the involvement of a parent and a student at these meetings, or a single representative from an organization representing their interests who has an above average wage rate (*i.e.*, \$29.96). We used the average hourly wage rate for all workers (\$22.71) for the school board official. For the student from a traditional or alternative route teacher preparation program, we used the 25th percentile of hourly wage for all workers of \$11.04. We also assumed that at least two State employees in managerial positions (with national average hourly earnings of \$45.58) would attend each meeting, with one budget or policy analyst to assist them (with national average hourly earnings of \$33.98).⁹⁰

A number of commenters stated that this consultation process would take longer than the 12 hours in our initial estimate and that our estimates did not include time for preparation for the meetings or for participant travel. Alternate estimates from commenters

⁹⁰ Unless otherwise noted, all wage rates in this section are based on average hourly earnings as reported by in the May 2014 National Occupational Employment and Wage Estimates from the Bureau of Labor Statistics available online at www.bls.gov/oes/current/oesrci.htm. Where hourly wages were unavailable, we estimated hourly wages using average annual wages from this source and the average annual hours worked from the National Compensation Survey, 2010.

ranged from 56 hours to 3,900 hours. Based on the comments we received, the Department believes that both States and participants may opt to meet for longer periods of time at each meeting or more frequently. However, we believe that many of the estimates from commenters were overestimates for an annual process. For example, the 3,900 hour estimate would require a commitment on the part of participants totaling 75 hours per week for 52 weeks per year. We believe this is highly unrealistic. However, we do recognize that States and interested parties may wish to spend a greater amount of time in the first year to discuss and establish the initial framework than we initially estimated. As such, we are increasing our initial estimate of 12 hours in the first year to 60 hours. We believe that this amount of time will provide an adequate amount of time for discussion of these important issues. We therefore estimate the cumulative cost to the 50 States, the District of Columbia, and Puerto Rico to be \$2,385,900.

We also recognize that, although the Department initially only estimated this consultative process occurring once every five years, States may wish to have a continuing consultation with these stakeholders. We believe that this engagement would take place either over email or conference call, or with an on-site meeting. We therefore are adding an estimated 20 hours per year for the intervening years for consulting with stakeholders. We therefore estimate that these additional consultations with stakeholders will cumulatively cost the 50 States, the District of Columbia, and Puerto Rico \$690,110.

States would also be required to report on the State-level rewards or consequences associated with the designated performance levels and on the opportunities they provide for teacher preparation programs to challenge the accuracy of their performance data and classification of the program. Costs associated with implementing these requirements are estimated in the discussion of annual costs associated with the SRC.

Procedures for Assessing and Reporting Performance

Under final § 612.4(b)(3), a State would be required to ensure that teacher preparation programs in the State are included on the SRC, but with some flexibility due to the Department's recognition that reporting on teacher preparation programs particularly consisting of a small number of prospective teachers could present privacy and data validity concerns. See § 612.4(b)(5). The Department originally

estimated that each State would need up to 14 hours to review and analyze applicable State and Federal privacy laws and regulations and existing research on the practices of other States that set program size thresholds in order to determine the most appropriate aggregation level and procedures for its own teacher preparation program reporting. Most of the comments the Department received on this estimate focused on the comparability of data across years and stated that this process would have to be conducted annually in order to reassess appropriate cut points. The Department agrees that comparability could be an issue in several instances, but is equally concerned with variability in the data induced solely by the small size of programs. As such, we believe providing States the flexibility to aggregate data across small programs is key to ensuring meaningful data for the public. Upon further review, the Department also recognized an error in the NPRM, in which we initially stated that this review would be a one-time cost. Contrary to that statement, our overall estimates in the NPRM included this cost on an annual basis. This review will likely take place annually to determine whether there are any necessary changes in law, regulation, or practice that need to be taken into consideration. As such, we are revising our statement to clarify that these costs will be reflected annually. However, because of the error in the original description of the burden estimate, this change does not substantively affect the underlying calculations.

Two commenters stated that the Department's initial estimate seemed low given the amount of work involved and three other commenters stated that the Department's initial estimates were adequate. Another commenter stated that this process would likely take longer in his State. No commenters offered alternative estimates. For the vast majority of States, we continue to believe that 14 hours is a sufficient amount of time for staff to review and analyze the applicable laws and statutes. However, given the potential complexity of these issues, as raised by commenters, we recognize that there may be additional staff involved and additional meetings required for purposes of consultation. In order to account for these additional burdens where they may exist, the Department is increasing its initial estimate to 20 hours. We believe that this will provide sufficient time for review, analysis, and discussion of these important issues. This provides an estimated cost to the

50 States, the District of Columbia, and the Commonwealth of Puerto Rico of \$51,750, based on the average national hourly earnings for a lawyer employed full-time by a State government (\$49.76).

Required Elements of the State Report Card

For purposes of reporting under § 612.4, each State will need to establish indicators that would be used to assess the academic content knowledge and teaching skills of the graduates of teacher preparation programs within its jurisdiction. At a minimum, States must base their assessments on student learning outcomes, employment outcomes, survey outcomes, and whether or not the program is accredited by a specialized accrediting agency recognized by the Secretary for accreditation of professional teacher education programs, or provides teacher candidates with content and pedagogical knowledge, and quality clinical preparation, and has rigorous teacher candidate exit qualifications.

States are required to report these outcomes for teacher preparation programs within their jurisdiction, with the only exceptions being for small programs for which aggregation under § 612.4(b)(3)(ii) would not yield the program size threshold (or for a State that chooses a lower program size threshold, would not yield the lower program size threshold) for that program, and for any program where reporting data would lead to conflicts with Federal or State privacy and confidentiality laws and regulations.

Student Learning Outcomes

In § 612.5, the Department requires that States assess the performance of teacher preparation programs based in part on data on the aggregate learning outcomes of students taught by novice teachers prepared by those programs. States have the option of calculating these outcomes using student growth, a teacher evaluation measure that includes student growth, another State-determined measure relevant to calculating student learning outcomes, or a combination of the three. Regardless of how they determine student learning outcomes, States are required to link these data to novice teachers and their teacher preparation programs. In the NPRM, we used available sources of information to assess the extent to which States appeared to already have the capacity to measure student learning outcomes and estimated the additional costs States that did not currently have the capacity might incur in order to comply with the

regulations. However, in these final regulations, the Department has expanded the definition of "teacher evaluation measure" and provided States with the discretion to use a State-determined measure relevant to calculating student learning outcomes, which they did not have in the proposed regulations. In our initial estimates, the Department assumed that only eight States would experience costs associated with measuring student learning outcomes. Of those, the Department noted that two already had annual teacher evaluations that included at least some objective evidence of student learning. For these two States, we estimated it would cost approximately \$596,720 to comply with the proposed regulations. For the six remaining States, we estimated a cost of \$16,079,390. We note that several commenters raised concerns about the specifics of some of our assumptions in making these estimates, particularly the amount of time we assumed it would take to complete the tasks we described. We outline and respond to those comments below. However, given the revised definition of "teacher evaluation measure," the additional option for States to use a State-defined measure other than student growth or a teacher evaluation measure, and the measures that States are already planning to implement consistent with ESSA, we believe all States either already have in place a system for measuring student learning outcomes or are already planning to have one in place absent these regulations. As such, we no longer believe that States will incur costs associated with measuring student learning outcomes solely as a result of these regulations.

Tested Grades and Subjects

In the NPRM, we assumed that the States would not need to incur any additional costs to measure student growth for tested grades and subjects and would only need to link these outcomes to teacher preparation programs by first linking the students' teachers to the teacher preparation program from which they graduated. The costs of linking student learning outcomes to teacher preparation programs are discussed below. Several commenters stated that assuming no costs for teachers in tested grades and subjects was unrealistic because this estimate was based on assurances provided by States, rather than on an assessment of actual State practice. We recognize the commenters' point. States that have made assurances to provide these student growth data may not currently be providing this information

to teachers and therefore will still incur a cost to do so. However, such cost and burden is not occurring as a result of the regulations, but as a result of prior assurances made by the States under other programs. In general, we do not include costs herein that arise from other programs or requirements, but only those that are newly created by the final rule. As such, we continue to estimate no new costs in this area for States to comply with this final rule.

Non-Tested Grades and Subjects

In the NPRM, we assumed that the District of Columbia, Puerto Rico, and the 42 States, which all had their requests for flexibility regarding specific requirements of the ESEA approved, would not incur additional costs to comply with the proposed regulations. This was, in part, because the teacher evaluation measures that they agreed to implement as part of the flexibility would meet the definition of a “teacher evaluation measure” under the proposed regulations. Some commenters expressed doubt that there would be no additional costs for these States, and others cited costs associated with developing new assessments for all currently non-tested grades and subjects (totaling as many as 57 new assessments). We recognize that States likely incurred costs to implement statewide comprehensive teacher evaluations. However, those additional costs did not accrue to States as a result of the regulations, but instead as part of their efforts under flexibility agreements. Therefore, we do not include an analysis of costs for States that received ESEA flexibility herein. Additionally, as noted previously, the regulations do not require States to develop new assessments for all currently non-tested grades and subjects. Therefore, we do not include costs for such efforts in these estimates.

To estimate, in the NPRM, the cost of measuring student growth for teachers in non-tested grades and subjects in the eight States that were not approved for ESEA flexibility, we divided the States into two groups—those who had annual teacher evaluations with at least some objective evidence of student learning outcomes and those that did not.

For those States that did not have an annual teacher evaluation in place, we estimated that it would take approximately 6.85 hours of a teacher’s time and 5.05 hours of an evaluator’s time to measure student growth using student learning objectives. Two commenters stated that these were underestimates, specifically noting that certain student outcomes (e.g., in the arts) are process-oriented and would

likely take longer. We recognize that it may be more time-intensive to develop student learning objectives to measure student growth in some subject areas. However, the Rhode Island model we used as a basis for these estimates was designed to be used across subject areas, including the arts. Further, we believe that both teachers and evaluators would have sufficient expertise in their content areas that they would be able to complete the activities outlined in the Rhode Island guidance in times approximating our initial estimates. As such, we continue to believe those estimates were appropriate for the average teacher.

In fact, we believe that this estimate likely overstated the cost to States that already require annual evaluations of all novice teachers because many of these evaluations would already encompass many of the activities in the framework. The National Council on Teacher Quality has reported that two of the eight States that did not receive ESEA flexibility required annual evaluations of all novice teachers and that those evaluations included at least some objective evidence of student learning. In these States, we initially estimated that teachers and evaluators would need to spend only a combined three hours to develop and measure against student learning objectives for the 4,629 novice teachers in these States.

Several commenters stated that their States did not currently have these data, and others argued that this estimate did not account for the costs of verifying the data. We understand that States may not currently have structures in place to measure student learning outcomes as defined in the proposed rules. However, we believe that the revisions in the final rule provide sufficient flexibility to States to ensure that they can meet the requirements of this section without incurring additional measurement costs as a result of compliance with this regulation. We have included costs for challenging data elsewhere in these estimates.

Linking Student Learning Outcomes to Teacher Preparation Programs

Whether using student scores on State assessments, teacher evaluation ratings, or other measures of student growth, under the regulations States must link the student learning outcomes data back to the teacher, and then back to that teacher’s preparation program. The costs to States to comply with this requirement will depend, in part, on the data and linkages in their statewide longitudinal data system. Through the Statewide Longitudinal Data Systems (SLDS) program, the Department has

awarded \$575.7 million in grants to support data systems that, among other things, allow States to link student achievement data to individual teachers and to postsecondary education systems. Forty-seven States, the District of Columbia, and the Commonwealth of Puerto Rico have already received at least one grant under this program to support the development of these data systems, so we expect that the cost to these States of linking student learning outcomes to teacher preparation programs would be lower than for the remaining States.

According to information from the SLDS program in June 2015, nine States currently link K–12 teacher data including data on both teacher/administrator evaluations and teacher preparation programs to K–12 student data. An additional 11 States and the District of Columbia are currently in the process of establishing this linkage, and ten States and the Commonwealth of Puerto Rico have plans to add this linkage to their systems during their SLDS grant. Based on this information, it appears that 30 States, the Commonwealth of Puerto Rico, and the District of Columbia either already have the ability to aggregate data on student achievement of students taught by program graduates and link those data back to teacher preparation programs or have committed to doing so; therefore, we do not estimate any additional costs for these States to comply with this aspect of the regulations. We note that, based on information from other Department programs and initiatives, a larger number of States currently make these linkages and would therefore incur no additional costs associated with the regulations. However, for purposes of this estimate, we use data from the SLDS program. As a result, these estimates are likely overestimates of the actual costs borne by States to make these data connections.

During the development of the regulations, the Department consulted with experts familiar with the development of student growth models and longitudinal data systems. These experts indicated that the cost of calculating growth for students taught by individual teachers and aggregating these data according to the teacher preparation program that these teachers completed would vary among States. For example, in States in which data on teacher preparation programs are housed within different or even multiple different postsecondary data systems that are not currently linked to data systems for elementary through secondary education students and teachers, these experts suggested that a

reasonable estimate of the cost of additional staff or vendor time to link and analyze the data would be \$250,000 per State. For States that already have data systems that include data from elementary to postsecondary education levels, we estimate that the cost of additional staff or vendor time to analyze the data would be \$100,000. Since we do not know enough about the data systems in the remaining 20 States to determine whether they are likely to incur the higher or lower estimate of costs, we averaged the higher and lower figure. Accordingly we estimate that the remaining 20 States will need to incur an average cost of \$175,000 to develop models to calculate growth for students taught by individual teachers and then link these data to teacher preparation programs for a total cost of \$3,500,000.

Several commenters stated that their States did not currently have the ability to make these linkages and their data systems would have to be updated and that, even in States that already have these linkages, there may be required updates to the system. We recognize that some States for which we assume no costs do not yet have the required functionality in their State data systems to make the links required under the regulations. However, as noted elsewhere, we reasonably rely on the assurances made by States that they are already planning on establishing these links, and are not doing so as a result of the regulations. As a result, we do not estimate costs for those States here. In regards to States that already have systems with these links in place, we are not aware of any updates that will need to be made to any of these systems solely in order to comply with the regulations, and therefore estimate no additional costs to these States.

Employment Outcomes

The final regulations require States to report employment outcomes, including data on both the teacher placement rate and the teacher retention rate, and on the effectiveness of a teacher preparation program in preparing, placing, and supporting novice teachers consistent with local educational needs. We have limited information on the extent to which States currently collect and maintain data on placement and retention for individual teachers.

Under § 612.4(b), States are required to report annually, for each teacher preparation program, on the teacher placement rate for traditional teacher preparation programs, the teacher placement rate calculated for high-need schools for all teacher preparation programs (whether traditional or alternative route), the teacher retention

rate for all teacher preparation programs (whether traditional or alternative route), and the teacher retention rate calculated for high-need schools for all teacher preparation programs (whether traditional or alternative route). States are not required to report on the teacher placement rate for alternative route programs. The Department has defined the “teacher placement rate” as the percentage of recent graduates who have become novice teachers (regardless of retention) for the grade level, span, and subject area in which they were prepared. “High-need schools” is defined in § 612.2(d) by using the definition of “high-need school” in section 200(11) of the HEA. The regulations will give States discretion to exclude recent graduates from this measure if they are teaching in a private school, teaching in another State, teaching in a position that does not require State certification, enrolled in graduate school, or engaged in military service.

Section 612.5(a)(2) and the definition of “teacher retention rate” in § 612.2 require a State to provide data on each teacher preparation program’s teacher retention rate, by calculating, for each of the last three cohorts of novice teachers preceding the current title II reporting year, the percentage of those teachers who have been continuously employed as teachers of record in each year between their first year as a novice teacher and the current reporting year. For the purposes of this definition, a cohort of novice teachers is determined by the first year in which they were identified as a novice teacher by the State. High-need schools is defined in § 612.2 by using the definition of “high-need school” from section 200(11) of the HEA. The regulations give States discretion to exclude novice teachers from this measure if they are teaching in a private school or another State, enrolled in graduate school, or serving in the military. States also have the discretion to treat this rate differently for alternative route and traditional route providers.

In its comments on the Department’s Notice of Intention to Develop Proposed Regulations Regarding Teacher Preparation Reporting Requirements, the Data Quality Campaign reported that 50 States, the District of Columbia, and the Commonwealth of Puerto Rico all collect some certification information on individual teachers and that a subset of States collect the following specific information on teacher preparation or qualifications that is relevant to the requirements: Type of teacher preparation program (42 States), location of teacher preparation program

(47 States), and year of certification (51 States).⁹¹

Data from the SLDS program indicate that 24 States can currently link data on individual teachers with their teacher preparation programs, including information on their current certification status and placement. In addition, seven States are currently in the process of making these links, and 10 States plan to add this capacity to their data systems, but have not yet established the link and process for doing so. Because these States would also maintain information on the certification status and year of certification of individual teachers, we assume they would already be able to calculate the teacher placement and retention rates for novice teachers but may incur additional costs to identify recent graduates who are not employed in a full-time teaching position within the State. It should be possible to do this at minimal cost by matching rosters of recent graduates from teacher preparation programs against teachers employed in full-time teaching positions who received their initial certification within the last three years. Additionally, because States already maintain the necessary information in State databases to identify schools as “high-need,” we do not believe there would be any appreciable additional cost associated with adding “high-need” flags to any accounting of teacher retention or placement rates in the State.

Several commenters stated that it was unrealistic to assume that any States currently had the information required under the regulations as the requirements were new. While we recognize that States may not have previously conducted these specific data analyses in the past, this does not mean that their systems are incapable of doing so. In fact, as outlined above, information available to the Department indicates that at least 24 States already have this capacity and that an additional 17 are in the process of developing it or plan to do so. Therefore, regardless of whether the specific data analysis itself is new, these States will not incur additional costs associated with the final regulations to establish that functionality.

The remaining 11 States may need to collect additional information from teacher preparation programs and LEAs because they do not appear to be able to link information on the employment,

⁹¹ ED’s Notice of Intention to Develop Proposed Regulations Regarding Teacher Preparation Reporting Requirements: DQC Comments to Share Knowledge on States’ Data Capacity. Retrieved from www.dataqualitycampaign.org/files/HEA%20Neg%20Regs%20formatted.pdf.

certification, and teacher preparation program for individual teachers. If it is not possible to establish this link using existing data systems, States may need to obtain some or all of this information from teacher preparation programs or from the teachers themselves. The American Association of Colleges for Teacher Education reported that, in 2012, 495 of 717 institutions (or about 70 percent) had begun tracking their graduates into job placements. Although half of those institutions have successfully obtained placement information, these efforts suggest that States may be able to take advantage of work already underway.⁹²

A number of commenters stated that IHEs would experience substantial burden in obtaining this information from all graduates. We agree that teacher preparation programs individually tracking and contacting their recent graduates would be highly burdensome and inefficient. However, in the regulations, the reporting burden falls on States, rather than institutions. As such, we believe it would be inappropriate to assume data collection costs and reporting burdens accruing to institutions.

For each of these 11 States, the Department originally estimated that 150 hours may be required at the State level to collect information about novice teachers employed in full-time teaching positions (including designing the data collection instruments, disseminating them, providing training or other technical assistance on completing the instruments, collecting the data, and checking their accuracy). Several commenters stated that the Department's estimates were too low. One commenter estimated that this process would take 350 hours. Another commenter indicated that his State takes approximately 100 hours to collect data on first year teachers and that data collection on more cohorts would take more time. Generally, the Department believes that this sort of data collection is subject to economies of scale—that for each additional cohort on which data are collected in a given year, the average time and cost associated with each cohort will decrease. This belief arises from the fact that many of the costs associated with such a collection, such as designing the data request instruments and disseminating them, are largely fixed. As such, we do not think that collecting data on three cohorts will take three times as long as

collecting data on one. However, we do recognize that there could be wide variation across States depending on the complexity of their systems and the way in which they opt to collect these data. For example, a State that sends data requests to individual LEAs to query their own data systems will experience a much higher overall burden with this provision than one that sends data requests to a handful of analysts at the State level who perform a small number of queries on State databases. Because of this potentially wide variation in burden across States, it is difficult to accurately estimate an average. However, based on public comment, we recognize that our initial estimate may have been too low. However, we also believe that States will make every effort to reduce the burdens associated with this provision. As such, we are increasing our estimate to 200 hours, with an expectation that this may vary widely across States. Using this estimate, we calculate a total annual cost to the 11 States of \$112,130, based on the national average hourly wage for education administrators of \$50.97.

Teacher Preparation Program Characteristics

Under § 612.5(a)(4) States are required to report whether each teacher preparation program in the State either: (a) Is accredited by a specialized accrediting agency recognized by the Secretary for accreditation of professional teacher education programs, or (b) provides teacher candidates with content and pedagogical knowledge and quality clinical preparation, and has rigorous teacher candidate exit standards. As discussed in greater detail in the Paperwork Reduction Act section of this document, we estimate that the total cost to the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico of providing these assurances for the estimated 15,335 teacher preparation programs nationwide for which States have already determined are accredited based on previous title II reporting submissions would be \$790,670, assuming that 2 hours were required per teacher preparation program and using an estimated hourly wage of \$25.78. Several commenters argued that these estimates did not accurately reflect the costs associated with seeking specialized accreditation. We agree with this statement. However, the regulations do not require programs to seek specialized accreditation. Thus, there would be no additional costs associated with this requirement for programs that are already seeking or have obtained

specialized accreditation. If teacher preparation programs that do not currently have specialized accreditation decide to seek it, they would not be doing so because of a requirement in these regulations, and therefore, it would be inappropriate to include those costs here.

Survey Outcomes

The Department requires States to report—disaggregated for each teacher preparation program—qualitative and quantitative data from surveys of novice teachers and their employers in order to capture their perceptions of whether novice teachers who were prepared at a teacher preparation program in that State possess the skills needed to succeed in the classroom. The design and implementation of these surveys would be determined by the State, but we provide the following estimates of costs associated with possible options for meeting this requirement.

Some States and IHEs currently survey graduates or recent graduates of teacher preparation programs. According to experts consulted by the Department, depending on the number of questions and the size of the sample, some of these surveys have been administered quite inexpensively. Oregon conducted a survey of a stratified random sample of approximately 50 percent of its teacher preparation program graduates and estimated that it cost \$5,000 to develop and administer the survey and \$5,000 to analyze and report the data. Since these data will be used to assess and publicly report on the quality of each teacher preparation program, we expect that the cost of implementing the proposed regulations is likely to be higher, because States may need to survey a larger sample of teachers and their employers in order to capture information on all teacher preparation programs.

Another potential factor in the cost of the teacher and employer surveys would be the number and type of questions. We have consulted with researchers experienced in the collection of survey data, and they have indicated that it is important to balance the burden on the respondent with the need to collect adequate information. In addition to asking teachers and their employers whether graduates of particular teacher preparation programs are adequately prepared before entering the classroom, States may also wish to ask about course-taking and student teaching experiences, as well as to collect demographic information on the respondent, including information on the school environment in which the

⁹² American Association of Colleges for Teacher Education (2013), *The Changing Teacher Preparation Profession: A report from AACTE's Professional Education Data System (PEDS)*.

teacher is currently employed. Because the researchers we consulted stressed that teachers and their employers are unlikely to respond to a survey that requires more than 30 minutes to complete, we assume that the surveys would not exceed this length.

Based on our consultation with experts and previous experience conducting surveys of teachers through evaluations of Department programs or policies, we originally estimated that it would cost the average State approximately \$25,000 to develop the survey instruments, including instructions for the survey recipients. However, a number of commenters argued that these development costs were far too low. Alternate estimates provided by commenters ranged from \$50,000 per State to \$200,000, with the majority of commenters offering a \$50,000 estimate. As such, the Department has revised its original estimate to \$50,000. This provides a total cost to the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico of \$2,600,000. However, we recognize that the cost would be lower for States that identify an existing instrument that could be adapted or used for this purpose, potentially including survey instruments previously developed by other States.⁹³ If States surveyed all individuals who completed teacher preparation programs in the previous year, we estimate that they would survey 180,744 teachers, based on the reported number of individuals completing teacher preparation programs, both traditional and alternative route programs, during the 2013–2014 academic year.

To estimate the cost of administering these surveys, we consulted researchers with experience conducting a survey of all recent graduates of teacher preparation programs in New York City.⁹⁴ In order to meet the target of a 70 percent response rate for that survey, the researchers estimated that their cost per respondent was \$100, which included an incentive for respondents worth \$25. We believe that it is unlikely

that States will provide cash incentives for respondents to the survey, thus providing an estimate of \$75 per respondent. However, since the time of data collection in that survey, there have been dramatic advances in the availability and usefulness of online survey software with a corresponding decrease in cost. As such, we believe that the \$75 per respondent estimate may actually provide an extreme upper bound and may dramatically overestimate the costs associated with administering any such survey. For example, several prominent online survey companies offer survey hosting services for as little as \$300 per year for unlimited questions and unlimited respondents. In the NPRM, using that total cost, and assuming surveys administered and hosted by the State and using the number of program graduates in 2013 (203,701), we estimated that the cost per respondent would range from \$0.02 to \$21.43, with an average cost per State of \$0.97. We recognize that this estimate would represent an extreme lower bound and many States are unlikely to see costs per respondent that low until the survey is fully integrated into existing systems. For example, States may be able to provide teachers with a mechanism, such as an online portal, to both verify their class rosters and complete the survey. Because teachers would be motivated to ensure that they were not evaluated based on the performance of students they did not teach, requiring novice teachers to complete the survey in order to access their class rosters would increase the response rate for the survey and allow novice teachers to select their teacher preparation program from a pull-down menu, reducing the amount of time required to link the survey results to particular programs. States could also have teacher preparation programs disseminate the novice teacher survey with other information for teacher preparation program alumni or have LEAs disseminate the novice teacher survey during induction or professional development activities. We believe that, as States incorporate these surveys into other structures, data collection costs will dramatically decline towards the lower bounds noted above.

The California State School Climate Survey (CSCS) is one portion of the larger California School Climate, Health, & Learning Survey, designed to survey teachers and staff to address questions of school climate. While the CSCS is subsidized by the State of California, it is also offered to school districts outside of the State for a fee, ranging from \$500

to \$1,500 per district, depending on its enrollment size. Applying this cost structure to all school districts nationwide with enrollment (as outlined in the Department's Common Core of Data), we estimated in the NPRM that costs would range from a low of \$0.05 per FTE teacher to \$500 per FTE teacher with an average of \$21.29 per FTE. However, these costs are inflated by single-school, single-teacher districts, which are largely either charter schools or small, rural school districts unlikely to administer separate surveys. When removing single-school, single-teacher districts, the average cost per respondent decreased to \$12.27.

Given the cost savings associated with online administration of surveys and the likelihood that States will fold these surveys into existing structures, we believe that many of these costs are likely over-estimates of the actual costs that States will bear in administering these surveys. However, for purposes of estimating costs in this context, we use a rate of \$30.33 per respondent, which represents a cost per respondent at the 85th percentile of the CSCS administration and well above the maximum administration cost for popular consumer survey software. One commenter stated that the Department's initial estimate was appropriate; but also suggested that, to reduce costs further, a survey could be administered less than annually, or only a subset of novice teachers could be surveyed. One commenter argued that this estimate was too low and provided an alternate estimate of aggregate costs for their State of \$300,000 per year. We note, however, that this commenter's alternate estimate was actually a lower cost per respondent than the Department's initial estimate—approximately \$25 per respondent compared to \$30.33. Another commenter argued that administration of the survey would cost \$100 per respondent. Some commenters also argued that administering the survey would require additional staff. Given the information discussed above and that public comment was divided on whether our estimate was too high, too low, or appropriate, we do not believe there is adequate reason to change our initial estimate of \$30.33 per respondent. Undoubtedly, some States may bear the administration costs by hiring additional staff while others will contract with an outside entity for the administration of the survey. In either case, we believe our original estimates to be reasonable. Using that estimate, we estimate that, if States surveyed a combined sample of 180,744 teachers and an equivalent number of

⁹³ The experts with whom we consulted did not provide estimates of the number of hours involved in the development of this type of survey. For the estimated burden hours for the Paperwork Reduction Act section, this figure represents 1,179 hours at an average hourly wage rate of \$42.40, based on the hourly wage for faculty at a public IHE and statisticians employed by State governments.

⁹⁴ These cost estimates were based primarily on our consultation with a researcher involved in the development, implementation, and analysis of surveys of teacher preparation program graduates and graduates of alternative certification programs in New York City in 2004 as part of the Teacher Pathways Project. These survey instruments are available online at: www.teacherpolicyresearch.org/TeacherPathwaysProject/Surveys/tabid.

employers,⁹⁵ with a response rate of 70 percent, the cumulative cost to the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico of administering the survey would be \$7,674,760.

If States surveyed all teacher preparation program graduates and their employers, assuming that both the teacher and employer surveys would take no more than 30 minutes to complete, that the employers are likely to be principals or district administrators, and a response rate of 70 percent of teachers and employers surveyed, the total estimated burden for 126,521 teachers and their 126,521 employers of completing the surveys would be \$2,635,430 and \$3,224,390 respectively, based on the national average hourly wage of \$41.66 for elementary and secondary public school teachers and \$50.97 for elementary and secondary school level administrators. These costs would vary depending on the extent to which a State determines that it can measure these outcomes based on a sample of novice teachers and their employers. This may depend on the distribution of novice teachers prepared by teacher preparation programs throughout the LEAs and schools within each State and also on whether or not some of this information is available from existing sources such as surveys of recent graduates conducted by teacher preparation programs as part of their accreditation process.

One commenter stated that principals would be unlikely to complete these surveys unless paid to do so. We recognize that some administrators may see these surveys as a burden and may be less willing to complete these surveys. However, we believe that States will likely take this factor into consideration when designing and administering these surveys by either reducing the amount of time necessary to complete the surveys, providing a financial incentive to complete them, or incorporating the surveys into other, pre-existing instruments that already require administrator input. Some States may also simply make completion a mandatory part of administrators' duties.

Annual Reporting Requirements Related to State Report Card

As discussed in greater detail in the Paperwork Reduction Act section of this document, § 612.4 includes several requirements for which States must annually report on the SRC. Using an estimated hourly wage of \$25.78, we estimate that the total cost for the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico to report the following required information in the SRC would be: Classifications of teacher preparation programs (\$370,280, based on 0.5 hours per 28,726 programs); assurances of accreditation (\$98,830, based on 0.25 hours per 15,335 programs); State's weighting of the different indicators in § 612.5 (\$340 annually, based on 0.25 hours per State); State-level rewards and consequences associated with the designated performance levels (\$670 in the first year and \$130 thereafter, based on 0.5 hours per State in the first year and 0.1 hours per State in subsequent years); method of program aggregation (\$130 annually, based on 0.1 hours per State); and process for challenging data and program classification (\$4,020 in the first year and \$1,550 thereafter, based on 3 hours per State in the first year and 6 hours for 10 States in subsequent years).

The Department's initial estimates also included costs associated with the examination of data collection quality (5.3 hours per State annually), and recordkeeping and publishing related to appeal decisions (5.3 hours per State). However, one commenter stated that the examination of data quality would take a high level of scrutiny and would take more time than was originally estimated and that our estimate associated with recordkeeping and publishing was low. Additionally, several commenters responded generally to the overall cost estimates in the NPRM with concerns about data quality and review. In response to these general concerns, and upon further review, the Department believes that States are likely to engage in a more robust data quality review process in response to these regulations. Furthermore, we believe that the associated documentation and recordkeeping estimates may have been lower than those reasonably expected by States. As such, the Department has increased its estimate of the time required from the original 5.3 hour estimate to 10 hours in both cases. These changes result in an estimated cost of \$13,410 for each of the two components. The sum of these annual reporting costs would be \$495,960 for the first year and \$492,950 in

subsequent years, based on a cumulative burden hours of 19,238 hours in the first year and 19,121 hours in subsequent years.

In addition, a number of commenters expressed concern that our estimates included time and costs associated with challenging data and program classification but did not reflect time and costs associated with allowing programs to actually review data in the SRC to ensure that the teachers attributed to them were actual recent program graduates. We agree that program-level review of these data may be necessary, particularly in the first few years, in order to ensure valid and reliable data. As such, we have revised our cost estimates to include time for programs to individually review data reports to ensure their accuracy. We assume that this review will largely consist of matching lists of recent teacher preparation program graduates with prepopulated lists provided by the State. Based on the number of program completers during the 2013–2014 academic year, and the total number of teacher preparation programs in that year, we estimate the average program would review a list of 19 recent graduates (180,744 program completers each year over three years divided by 27,914 programs). As such, we do not believe this review will take a considerable amount of time. However, to ensure that we estimate sufficient time for this review, we estimate 1 hour per program for a total cost for the 27,914 teacher preparation programs of \$719,620.

Under § 612.5, States would also incur burden to enter the required aggregated information on student learning, employment, and survey outcomes into the information collection instrument for each teacher preparation program. Using the estimated hourly wage rate of \$25.78, we estimate the following cumulative costs to the 50 States, the District of Columbia, and Puerto Rico to report on 27,914 teacher preparation programs and 812 teacher preparation programs provided through distance education: Annual reporting on student learning outcomes (\$1,851,390 annually, based on 2.5 hours per program); and annual reporting of employment outcomes (\$2,591,950 annually, based on 3.5 hours per program); and annual reporting of survey outcomes (\$740,560 annually, based on 1 hour per program).

After publication of the NPRM, we recognized that our initial estimates did not include costs or burden associated with States' reporting data on any other indicators of academic content knowledge and teaching skills. To the

⁹⁵ We note that, to the extent that multiple novice teachers are employed in the same school, there would be fewer employers surveyed than the estimates outlined above. However, for purposes of this estimate, we have assumed an equivalent number of employers. This assumption will result in an overestimate of actual costs.

extent that States use additional indicators not required by these regulations, we believe that they will choose to use indicators currently in place for identifying low-performing teacher preparation programs rather than instituting new indicators and new data collection processes. As such, we do not believe that States will incur any additional data collection costs. Additionally, we assume that transitioning reporting on these indicators from the entity level to the program level will result in minimal costs at the State level that are already captured elsewhere in these estimates. As such, we believe the only additional costs associated with these other indicators will be in entering the aggregated information into the information collection instrument. We assume that, on average, it will take States 1 hour per program to enter this information. States with no or few other indicators will experience much lower costs than those estimated here. Those States that use a large number of other indicators may experience higher costs than those estimated here, though we believe it is unlikely that the data entry process per program for these other indicators will exceed this estimate. As such, we estimate an annual cost to the 50 States, the District of Columbia, and Puerto Rico of \$740,560 to report on other indicators of academic content knowledge and teaching skills.

Our estimate of the total annual cost of reporting these outcome measures on the SRC related to \$ 612.5 is \$5,924,460, based on 229,808 hours.

Potential Benefits

The principal benefits related to the evaluation and classification of teacher preparation programs under the regulations are those resulting from the reporting and public availability of information on the effectiveness of teachers prepared by teacher preparation programs within each State. The Department believes that the information collected and reported as a result of these requirements will improve the accountability of teacher preparation programs, both traditional and alternative route to certification programs, for preparing teachers who are equipped to succeed in classroom settings and help their students reach their full potential.

Research studies have found significant and substantial variation in teaching effectiveness among individual teachers and some variation has also been found among graduates of different

teacher preparation programs.⁹⁶ For example, Tennessee reports that some teacher preparation programs consistently report statistically significant differences in student learning outcomes for grades and subjects covered by State assessments over multiple years and meaningful differences in teacher placement and retention rates.⁹⁷ Because this variation in the effectiveness of graduates is not associated with any particular type of preparation program, the only way to determine which programs are producing more effective teachers is to link information on the performance of teachers in the classroom back to their teacher preparation programs.⁹⁸ The regulations do this by requiring States to link data on student learning outcomes, employment outcomes, and teacher and employer survey outcomes back to the teacher preparation programs, rating each program based on these data, and then making that information available to the public.

The Department recognizes that simply requiring States to assess the performance of teacher preparation programs and report this information to the public will not produce increases in student achievement, but it is an important part of a larger set of policies and investments designed to attract talented individuals to the teaching profession; prepare them for success in the classroom; and support, reward, and retain effective teachers. In addition, the Department believes that, once information on the performance of teacher preparation programs is more readily available, a variety of stakeholders will become better consumers of these data, which will ultimately lead to improved student achievement by influencing the behavior of States seeking to provide technical assistance to low-performing programs, IHEs engaging in deliberate self-improvement efforts, prospective teachers seeking to train at the highest quality teacher preparation programs, and employers seeking to hire the most highly qualified novice teachers.

Louisiana has already adopted some of the proposed requirements and has begun to see improvements in teacher preparation programs. Based on data

suggesting that the English Language Arts teachers prepared by the University of Louisiana at Lafayette were less effective than other novice teachers prepared by other programs, Louisiana identified the program in 2008 as being in need of improvement and provided additional analyses of the qualifications of the program's graduates and of the specific areas where the students taught by program graduates appeared to be struggling.⁹⁹ When data suggested that students struggled with essay questions, faculty from the elementary education program and the liberal arts department in the university collaborated to restructure the teacher education curriculum to include more writing instruction. Based on 2010–11 data, student learning outcomes for teachers prepared by this program are now comparable to other novice teachers in the State, and the program is no longer identified for improvement.¹⁰⁰

This is one example, but it suggests that States can use data on student learning outcomes for graduates of teacher preparation programs to help these programs identify weaknesses and implement needed reforms in a reasonable amount of time. As more information becomes available and if the data indicate that some programs produce more effective teachers, LEAs seeking to hire novice teachers will prefer to hire teachers from those programs. All things being equal, aspiring teachers will elect to pursue their degrees or certificates at teacher preparation programs with strong student learning outcomes, placement and retention rates, survey outcomes, and other measures.

TEACH Grants

The final regulations link program eligibility for participation in the TEACH Grant program to the State assessment of program quality under 34 CFR part 612. Under §§ 686.11(a)(1)(iii) and 686.2(d), to be eligible to receive a TEACH Grant for a program, an individual must be enrolled in a high-quality teacher preparation program—that is, a program that is classified by the State as effective or higher in either or both the October 2019 or October 2020 SRC for the 2021–2022 title IV, HEA award year; or, classified by the State as effective or higher in two out of

⁹⁶ See, for example: Boyd, D., Grossman, P., Lankford, H., Loeb, S., & Wyckoff, J. (2009). Teacher Preparation and Student Achievement. *Education Evaluation and Policy Analysis*, 31(4), 416–440.

⁹⁷ See Report Card on the Effectiveness of Teacher Training Programs, Tennessee 2014 Report Card. (n.d.). Retrieved from <http://www.tn.gov/thec/article/report-card>.

⁹⁸ Kane, T., Rockoff, J., & Staiger, D. (2008). What does certification tell us about teacher effectiveness? Evidence from New York City. *Economics of Education Review*, 27(6), 615–631.

⁹⁹ Sawchuk, S. (2012). Value Added Concept Proves Beneficial to Teacher Colleges. Retrieved from www.edweek.org.

¹⁰⁰ Gansle, K., Noell, G., Knox, R.M., Schafer, M.J. (2010). *Value Added Assessment of Teacher Preparation Programs in Louisiana: 2007–2008 to 2009–2010 Overview of 2010–11 Results*. Retrieved from Louisiana Board of Regents.

the previous three years, beginning with the October 2020 SRC, for the 2022–2023 title IV, HEA award year, under 34 CFR 612.4(b). As noted in the NPRM, the Department estimates that approximately 10 percent of TEACH Grant recipients are not enrolled in teacher preparation programs, but are majoring in such subjects as STEM, foreign languages, and history. Under the final regulations, in a change from the NPRM and from the current TEACH Grant regulations, students would need to be in an effective teacher preparation program as defined in § 612.2, but those who pursue a dual-major that includes a teacher preparation program would be eligible for a TEACH Grant. Additionally, institutions could design and designate programs that aim to develop teachers in STEM and other high-demand teaching fields that combine subject matter and teacher preparation courses as TEACH Grant eligible programs. Therefore, while we expect some reduction in TEACH Grant volume as detailed in the *Net Budget Impacts* section of this Regulatory Impact Analysis (RIA), we do expect that many students interested in teaching STEM and other key subjects will still be able to get TEACH Grants at some point in their postsecondary education.

In addition to the referenced benefits of improved accountability under the title II reporting system, the Department believes that the regulations relating to TEACH Grants will also contribute to the improvement of teacher preparation programs. Linking program eligibility for TEACH Grants to the performance assessment by the States under the title II reporting system provides an additional factor for prospective students to consider when choosing a program and an incentive for programs to achieve a rating of effective or higher.

In order to analyze the possible effects of the regulations on the number of programs eligible to participate in the TEACH Grant program and the amount of TEACH Grants disbursed, the Department analyzed data from a variety of sources. This analysis focused on teacher preparation programs at IHEs. This is because, under the HEA, alternative route programs offered independently of an IHE are not eligible to participate in the TEACH Grant program. For the purpose of analyzing the effect of the regulations on TEACH Grants, the Department estimated the number of teacher preparation programs based on data from the Integrated Postsecondary Education Data System (IPEDS) about program graduates in education-related majors as defined by the Category of Instructional Program (CIP) codes and award levels. For the purposes of this analysis, “teacher preparation programs” refers to programs in the relevant CIP codes that also have the IPEDS indicator flag for being a State-approved teacher education program.

As detailed in the NPRM published December 3, 2014, in order to estimate how many programs might be affected by a loss of TEACH Grant eligibility, the Department had to estimate how many programs will be individually evaluated under the regulations, which encourage States to report on the performance of individual programs offered by IHEs rather than on the aggregated performance of programs at the institutional level as currently required. As before, the Department estimates that approximately 3,000 programs may be evaluated at the highest level of aggregation and approximately 17,000 could be evaluated if reporting is done at the most disaggregated level. Table 3 summarizes these two possible approaches to program definition that represent the opposite ends of the range

of options available to the States. Based on IPEDS data, approximately 30 percent of programs defined at the six digit CIP code level have at least 25 novice teachers when aggregated across three years, so States may add one additional year to the analysis or aggregate programs with similar features to push more programs over the threshold, pursuant to the regulations. The actual number of programs at IHEs reported on will likely fall between these two points represented by Approach 1 and Approach 2. The final regulations define a teacher preparation program offered through distance education as a teacher preparation program at which at least 50 percent of the program’s required coursework is offered through distance education and that starting with the 2021–2022 award year and subsequent award years, is not classified as less than effective, based on 34 CFR 612.4(b), by the same State for two out of the previous three years or meets the exception from State reporting of teacher preparation program performance under 34 CFR 612.4(b)(3)(ii)(D) or (E). The exact number of these programs is uncertain, but in the Supplemental NPRM concerning teacher preparation programs offered through distance education, the Department estimated that 812 programs would be reported. Whatever the number of programs, the TEACH Grant volume associated with these schools is captured in the amounts used in our *Net Budget Impacts* discussion. In addition, as discussed earlier in the Analysis of Comments and Changes section, States will have to report on alternative certification teacher preparation programs that are not housed at IHEs, but they are not relevant for analysis of the effects on TEACH Grants because they are ineligible for title IV, HEA funds and are not included in Table 5.

TABLE 5—TEACHER PREPARATION PROGRAMS AT IHEs AND TEACH GRANT PROGRAM

	Approach 1	Approach 1	Approach 2	Approach 2
	Total	TEACH Grant participating	Total	TEACH Grant participating
Public Total	2,522	1,795	11,931	8,414
4-year	2,365	1,786	11,353	8,380
2-year or less	157	9	578	34
Private Not-for-Profit Total	1,879	1,212	12,316	8,175
4-year	1,878	1,212	12,313	8,175
2-year or less	1		3	
Private For-Profit Total	67	39	250	132
4-year	59	39	238	132
2-year or less	8		12	
Total	4,468	3,046	24,497	16,721

Given the number of programs and their TEACH Grant participation status as described in Table 3, the Department examined IPEDS data and the Department's budget estimates for 2017 related to TEACH Grants to estimate the effect of the regulations on TEACH Grants beginning with the FY 2021 cohort when the regulations would be in effect. Based on prior reporting, only 37 IHEs (representing an estimated 129 programs) were identified as having a low-performing or at-risk program in 2010 and twenty-seven States have not identified any low-performing programs in twelve years. Given prior identification of such programs and the fact that the States would continue to

control the classification of teacher preparation programs subject to analysis, the Department does not expect a large percentage of programs to be subject to a loss of eligibility for TEACH Grants. Therefore, the Department evaluated the effects on the amount of TEACH Grants disbursed and the number of recipients on the basis of the States classifying a range of three percent, five percent, or eight percent of programs to be low-performing or at-risk. These results are summarized in Table 6. Ultimately, the number of programs affected is subject to the program definition, rating criteria, and program classifications adopted by the individual States, so the distribution of

those effects is not known with certainty. However, the maximum effect, whatever the distribution, is limited by the amount of TEACH Grants made and the percentage of programs classified as low-performing and at-risk that participate in the TEACH Grant program. In the NPRM, the Department invited comments about the expected percentage of programs that will be found to be low-performing and at-risk. No specific comments were received, so the updated numbers based on the budget estimates for 2017 apply the same percentages as were used in the NPRM.

TABLE 6—ESTIMATED EFFECT IN 2021 ON PROGRAMS AND TEACH GRANT AMOUNTS OF DIFFERENT RATES OF INELIGIBILITY

	3%	5%	8%
[Percentage of low-performing or at-risk programs]			
Programs:			
Approach 1	214	356	570
Approach 2	385	641	1,026
TEACH Grant Recipients	1,061	1,768	2,828
TEACH Grant Amount at Low-Performing or At-Risk programs	\$3,127,786	\$5,212,977	\$8,340,764

The estimated effects presented in Table 4 reflect assumptions about the likelihood of a program being ineligible and do not take into account the size of the program or participation in the TEACH Grant program. The Department had no program level performance information and treats the programs as equally likely to become ineligible for TEACH Grants. If, in fact, factors such as size or TEACH Grant participation were associated with high or low performance, the number of TEACH Grant recipients and TEACH Grant volume could deviate from these estimates.

Whatever the amount of TEACH Grant volume at programs found to be ineligible, the effect on IHEs will be reduced from the full amounts represented by the estimated effects presented here as students could elect to enroll in other programs at the same IHE that retain eligibility because they are classified by the State as effective or higher. Another factor that would reduce the effect of the regulations on programs and students is that an otherwise eligible student who received a TEACH Grant for enrollment in a TEACH Grant-eligible program is eligible to receive additional TEACH Grants to complete the program, even if that program loses status as a TEACH Grant-eligible program.

Several commenters expressed concern that linking TEACH Grant eligibility to the State's evaluation of the program would harm teacher development from, and availability to, poor and underserved communities. We believe that the pilot year that provides some warning of program performance, the flexibility for States to develop their evaluation criteria, and a long history of programs performing above the at-risk or low-performing levels will reduce the possibility of this effect. The Department continues to expect that over time a large portion of the TEACH Grant volume now disbursed to students at programs that will be categorized as low-performing or at-risk will be shifted to programs that remain eligible. The extent to which this happens will depend on other factors affecting the students' enrollment decisions such as in-State status, proximity to home or future employment locations, and the availability of programs of interest, but the Department believes that students will take into account a program's rating and the availability of TEACH Grants when looking for a teacher preparation program. As discussed in the Net Budget Impacts section of this RIA, the Department expects that the reduction in TEACH Grant volume will taper off as States identify low-performing and at-risk programs and those programs are improved or are no longer eligible for

TEACH Grants. Because existing recipients will continue to have access to TEACH Grants, and incoming students will have notice and be able to consider the program's eligibility for TEACH Grants in making an enrollment decision, the reduction in TEACH Grant volume that is classified as a transfer from students at ineligible programs to the Federal government will be significantly reduced from the estimated range of approximately \$3.0 million to approximately \$8.0 million in Table 4 for the initial years the regulations are in effect. While we have no past experience with students' reaction to a designation of a program as low-performing and loss of TEACH Grant eligibility, we assume that, to the extent it is possible, students would choose to attend a program rated effective or higher. For IHEs, the effect of the loss of TEACH Grant funds will depend on the students' reaction and how many choose to enroll in an eligible program at the same IHE, choose to attend a different IHE, or make up for the loss of TEACH Grants by funding their program from other sources.

The Department does not anticipate that many programs will lose State approval or financial support. If this does occur, IHEs with such programs would have to notify enrolled and accepted students immediately, notify the Department within 30 days, and

disclose such information on its Web site or promotional materials. The Department estimates that 50 IHEs would offer programs that lose State approval or financial support and that it would take 5.75 hours to make the necessary notifications and disclosures at a wage rate of \$25.78 for a total cost of \$7,410. Finally, some of the programs that lose State approval or financial support may apply to regain eligibility for title IV, HEA funds upon improved performance and restoration of State approval or financial support. The Department estimates that 10 IHEs with such programs would apply for restored eligibility and the process would require 20 hours at a wage rate of \$25.78 for a total cost of \$5,160.

3. Regulatory Alternatives Considered

The final regulations were developed through a negotiated rulemaking process in which different options were considered for several provisions. Among the alternatives the Department considered were various ways to reduce the volume of information States and teacher preparation programs are required to collect and report under the existing title II reporting system. One approach would have been to limit State reporting to items that are statutorily required. While this would reduce the reporting burden, it would not address the goal of enhancing the quality and usefulness of the data that are reported. Alternatively, by focusing the reporting requirements on student learning outcomes, employment outcomes, and teacher and employer survey data, and also providing States with flexibility in the specific methods they use to measure and weigh these outcomes, the regulations balance the desire to reduce burden with the need for more meaningful information.

Additionally, during the negotiated rulemaking session, some non-Federal negotiators spoke of the difficulty States would have developing the survey instruments, administering the surveys, and compiling and tabulating the results for the employer and teacher surveys. The Department offered to develop and

conduct the surveys to alleviate additional burden and costs on States, but the non-Federal negotiators indicated that they preferred that States and teacher preparation programs conduct the surveys.

One alternative considered in carrying out the statutory directive to direct TEACH Grants to “high quality” programs was to limit eligibility only to programs that States classified as “exceptional”, positioning the grants more as a reward for truly outstanding programs than as an incentive for low-performing and at-risk programs to improve. In order to prevent a program’s eligibility from fluctuating year-to-year based on small changes in evaluation systems that are being developed and to keep TEACH Grants available to a wider pool of students, including those attending teacher preparation programs producing satisfactory student learning outcomes, the Department and most non-Federal negotiators agreed that programs rated effective or higher would be eligible for TEACH Grants.

4. Net Budget Impacts

The final regulations related to the TEACH Grant program are estimated to have a net budget impact of \$0.49 million in cost reduction over the 2016 to 2026 loan cohorts. These estimates were developed using the Office of Management and Budget’s (OMB) Credit Subsidy Calculator. The OMB calculator takes projected future cash flows from the Department’s student loan cost estimation model and produces discounted subsidy rates reflecting the net present value of all future Federal costs associated with awards made in a given fiscal year. Values are calculated using a “basket of zeros” methodology under which each cash flow is discounted using the interest rate of a zero-coupon Treasury bond with the same maturity as that cash flow. To ensure comparability across programs, this methodology is incorporated into the calculator and used Government-wide to develop estimates of the Federal cost of credit programs. Accordingly, the Department believes it is the

appropriate methodology to use in developing estimates for these regulations. That said, in developing the following Accounting Statement, the Department consulted with OMB on how to integrate the Department’s discounting methodology with the discounting methodology traditionally used in developing regulatory impact analyses.

Absent evidence of the impact of these regulations on student behavior, budget cost estimates were based on behavior as reflected in various Department data sets and longitudinal surveys. Program cost estimates were generated by running projected cash flows related to the provision through the Department’s student loan cost estimation model. TEACH Grant cost estimates are developed across risk categories: Freshmen/sophomores at 4-year IHEs, juniors/seniors at 4-year IHEs, and graduate students. Risk categories have separate assumptions based on the historical pattern of the behavior of borrowers in each category—for example, the likelihood of default or the likelihood to use statutory deferment or discharge benefits.

As discussed in the TEACH Grants section of the *Discussion of Costs, Benefits, and Transfers* section in this RIA, the regulations could result in a reduction in TEACH Grant volume. Under the effective dates and data collection schedule in the regulations, that reduction in volume would start with the 2021 TEACH Grant cohort. The Department assumes that the effect of the regulations would be greatest in the first years they were in effect as the low-performing and at-risk programs are identified, removed from TEACH Grant eligibility, and helped to improve or are replaced by better performing programs. Therefore, the percent of volume estimated to be at programs in the low-performing or at-risk categories is assumed to drop for future cohorts. As shown in Table 7, the net budget impact over the 2016–2026 TEACH Grant cohorts is approximately \$0.49 million in reduced costs.

TABLE 7—ESTIMATED BUDGET IMPACT

PB 2017 TEACH Grant:						
Awards	35,354	36,055	36,770	37,498	38,241	38,999
Amount	104,259,546	106,326,044	108,433,499	110,582,727	112,774,555	115,009,826
Remaining Volume after Reduction from Change in TEACH Grants for STEM Programs:						
%	92.00%	92.00%	92.00%	92.00%	92.00%	92.00%
Awards	32,526	33,171	33,828	34,498	35,182	35,879
Amount	95,918,782	97,819,960	99,758,819	101,736,109	103,752,591	105,809,040
Low Performing and At Risk:						
%	5.00%	3.00%	1.50%	1.00%	0.75%	0.50%
Awards	1,626	995	507	345	264	179
Amount	4,795,939	2,934,599	1,496,382	1,017,361	778,144	529,045
Redistributed TEACH Grants:						

TABLE 7—ESTIMATED BUDGET IMPACT—Continued

%	75%	75%	75%	75%	75%	75%
Amount	3,596,954	2,200,949	1,122,287	763,021	583,608	396,784
Reduced TEACH Grant Volume:						
%	25%	25%	25%	25%	25%	25%
Amount	1,198,985	733,650	374,096	254,340	194,536	132,261
Estimated Budget Impact of Policy:						
Subsidy Rate	17.00%	17.16%	17.11%	16.49%	16.40%	16.24%
Baseline Volume	104,259,546	106,326,044	108,433,499	110,582,727	112,774,555	115,009,826
Revised Volume	103,060,561	105,592,394	108,059,403	110,328,387	112,580,019	114,877,565
Baseline Cost	17,724,123	18,245,549	18,552,972	18,235,092	18,495,027	18,677,596
Revised Cost	17,520,295	18,119,655	18,488,964	18,193,151	18,463,123	18,656,117
Estimated Cost Reduction	203,827	125,894	64,008	41,941	31,904	21,479

The estimated budget impact presented in Table 5 is defined against the PB 2017 baseline costs for the TEACH Grant program, and the actual volume of TEACH Grants in 2021 and beyond will vary. The budget impact estimate depends on the assumptions about the percent of TEACH Grant volume at programs that become ineligible and the share of that volume that is redistributed or reduced as shown in Table 5. Finally, absent evidence of different rates of loan conversion at programs that will be eligible or ineligible for TEACH Grants when the proposed regulations are in place, the Department did not assume a different loan conversion rate as TEACH Grants shifted to programs rated effective or higher. However, given that placement and retention rates are one element of the program evaluation system, the Department does hope that, as students shift to programs rated

effective, more TEACH Grant recipients will fulfill their service obligations. If this is the case and their TEACH Grants do not convert to loans, the students who do not have to repay the converted loans will benefit and the expected cost reductions for the Federal government may be reduced or reversed because more of the TEACH Grants will remain grants and no payment will be made to the Federal government for these grants. The final regulations also change total and permanent disability discharge provisions related to TEACH Grants to be more consistent with the treatment of interest accrual for total and permanent discharges in the Direct Loan program. This is not expected to have a significant budget impact.

In addition to the TEACH Grant provision, the regulations include a provision that would make a program ineligible for title IV, HEA funds if the program was found to be low-

performing and subject to the withdrawal of the State's approval or termination of the State's financial support. As noted in the NPRM, the Department assumes this will happen rarely and that the title IV, HEA funds involved would be shifted to other programs. Therefore, there is no budget impact associated with this provision.

5. Accounting Statement

As required by OMB Circular A-4 (available at www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf), in the following table we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of these final regulations. This table provides our best estimate of the changes in annual monetized costs, benefits, and transfers as a result of the final regulations.

Category	Benefits	
Better and more publicly available information on the effectiveness of teacher preparation programs	Not Quantified	
Distribution of TEACH Grants to better performing programs	Not Quantified	
Category	Costs	
	7%	3%
Institutional Report Card (set-up, annual reporting, posting on Web site)	\$3,734,852	\$3,727,459
State Report Card (Statutory requirements: Annual reporting, posting on Web site; Regulatory requirements: Meaningful differentiation, consulting with stakeholders, aggregation of small programs, teacher preparation program characteristics, other annual reporting costs)	\$3,653,206	\$3,552,147
Reporting Student Learning Outcomes (develop model to link aggregate data on student achievement to teacher preparation programs, modifications to student growth models for non-tested grades and subjects, and measuring student growth)	\$2,317,111	\$2,249,746
Reporting Employment Outcomes (placement and retention data collection directly from IHEs or LEAs)	\$2,704,080	\$2,704,080
Reporting Survey Results (developing survey instruments, annual administration, and response costs)	\$14,621,104	\$14,571,062
Reporting Other Indicators	\$740,560	\$740,560
Identifying TEACH Grant-eligible Institutions	\$12,570	\$12,570
Category	Transfers	
Reduced costs to the Federal government from TEACH Grants to prospective students at teacher preparation programs found ineligible	(\$60,041)	(\$53,681)

6. Final Regulatory Flexibility Analysis

These regulations will affect IHEs that participate in the title IV, HEA programs, including TEACH Grants, alternative certification programs not housed at IHEs, States, and individual borrowers. The U.S. Small Business Administration (SBA) Size Standards define for-profit IHEs as “small businesses” if they are independently owned and operated and not dominant in their field of operation with total annual revenue below \$7,000,000. The SBA Size Standards define nonprofit IHEs as small organizations if they are independently owned and operated and not dominant in their field of operation, or as small entities if they are IHEs controlled by governmental entities with populations below 50,000. The revenues involved in the sector affected by these regulations, and the concentration of ownership of IHEs by private owners or public systems means that the number of title IV, HEA eligible IHEs that are small entities would be limited but for the fact that the nonprofit entities fit within the definition of a small organization regardless of revenue. The potential for some of the programs offered by entities subject to the final regulations to lose eligibility to participate in the title IV, HEA programs led to the preparation of this Final Regulatory Flexibility Analysis.

Description of the Reasons That Action by the Agency Is Being Considered

The Department has a strong interest in encouraging the development of highly trained teachers and ensuring

that today’s children have high quality and effective teachers in the classroom, and it seeks to help achieve this goal in these final regulations. Teacher preparation programs have operated without access to meaningful data that could inform them of the effectiveness of their teachers who graduate and go on to work in the classroom setting.

The Department wants to establish a teacher preparation feedback mechanism premised upon teacher effectiveness. Under the final regulations, an accountability system would be established that would identify programs by quality so that effective teacher preparation programs could be recognized and rewarded and low-performing programs could be supported and improved. Data collected under the new system will help all teacher preparation programs make necessary corrections and continuously improve, while facilitating States’ efforts to reshape and reform low-performing and at-risk programs.

We are issuing these regulations to better implement the teacher preparation program accountability and reporting system under title II of the HEA and to revise the regulations implementing the TEACH Grant program. Our key objective is to revise Federal reporting requirements, while reducing institutional burden, as appropriate. Additionally, we aim to have State reporting focus on the most important measures of teacher preparation program quality while tying TEACH Grant eligibility to assessments of program performance under the title II accountability system. The legal basis

for these regulations is 20 U.S.C. 1022d, 1022f, and 1070g, *et seq.*

The final regulations related to title II reporting affect a larger number of entities, including small entities, than the smaller number of entities that could lose TEACH Grant eligibility or title IV, HEA program eligibility. The Department has more data on teacher preparation programs housed at IHEs than on those independent of IHEs. Whether evaluated at the aggregated institutional level or the disaggregated program level, as described in the TEACH Grant section of the *Discussion of Costs, Benefits, and Transfers* section in this RIA as Approach 1 and Approach 2, respectively, State-approved teacher preparation programs are concentrated in the public and private not-for-profit sectors. For the provisions related to the TEACH Grant program and using the institutional approach with a threshold of 25 novice teachers (or a lower threshold at the discretion of the State), since the IHEs will be reporting for all their programs, we estimate that approximately 56.4 percent of teacher preparation programs are at public IHEs—the vast majority of which would not be small entities, and 42.1 percent are at private not-for-profit IHEs. The remaining 1.5 percent are at private for-profit IHEs and of those with teacher preparation programs, approximately 18 percent had reported FY 2012 total revenues under \$7 million based on IPEDS data and are considered small entities. Table 8 summarizes the estimated number of teacher preparation programs offered at small entities.

TABLE 8—TEACHER PREPARATION PROGRAMS AT SMALL ENTITIES

	Total programs	Programs at small entities	% of Total programs offered at small entities	Programs at TEACH Grant participating small entities
Public:				
Approach 1	2,522	17	1	14
Approach 2	11,931	36	0	34
Private Not-for-Profit:				
Approach 1	1,879	1,879	100	1,212
Approach 2	12,316	12,316	100	8,175
Private For-Profit:				
Approach 1	67	12	18	1
Approach 2	250	38	15	21

Source: IPEDS

Note: Table includes programs at IHEs only.

The Department has no indication that programs at small entities are more likely to be ineligible for TEACH Grants or title IV, HEA funds. Since all private not-for-profit IHEs are considered to be small because none are dominant in the field, we would expect about 5 percent

of TEACH Grant volume at teacher preparation programs at private not-for-profit IHEs to be at ineligible programs. In AY 2014–15, approximately 43.7 percent of TEACH Grant disbursements went to private not-for-profit IHEs, and by applying that to the estimated

TEACH Grant volume in 2021 of \$95,918,782, the Department estimates that TEACH Grant volume at private not-for-profit IHEs in 2021 would be approximately \$42.0 million. At the five percent low-performing or at-risk rate assumed in the TEACH Grants portion

of the Cost, Benefits, and Transfers section of the Regulatory Impact Analysis, TEACH Grant revenues would be reduced by approximately \$2.1 million at programs at private not-for-profit entities in the initial year the regulations are in effect and a lesser amount after that. Much of this revenue could be shifted to eligible programs within the IHE or the sector, and the cost to programs would be greatly reduced by students substituting other sources of funds for the TEACH Grants.

In addition to the teacher preparation programs at IHEs included in Table 6, approximately 1,281 alternative certification programs offered outside of IHEs are subject to the reporting requirements in the regulations. The Department assumes that a significant majority of these programs are offered by non-profit entities that are not dominant in the field, so all of the alternative certification teacher preparation programs are considered to be small entities. However, the reporting burden for these programs falls on the States. As discussed in the Paperwork Reduction Act section of this document, the estimated total paperwork burden on IHEs would decrease by 66,740 hours. Small entities would benefit from this relief from the current institutional reporting requirements.

The final regulations are unlikely to conflict with or duplicate existing Federal regulations.

Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 (PRA) does not require you to respond to a collection of information unless it displays a valid OMB control number. We display the valid OMB control numbers assigned to the collections of information in these final regulations at the end of the affected sections of the regulations.

Sections 612.3, 612.4, 612.5, 612.6, 612.7, 612.8, and 686.2 contain information collection requirements. Under the PRA, the Department has submitted a copy of these sections, related forms, and Information Collection Requests (ICRs) to the Office of Management and Budget (OMB) for its review.

The OMB control number associated with the regulations and related forms is 1840-0837. Due to changes described in the *Discussion of Costs, Benefits, and Transfers* section of the RIA, estimated burdens have been updated below.

Start-Up and Annual Reporting Burden

These regulations implement a statutory requirement that IHEs and States establish an information and accountability system through which

IHEs and States report on the performance of their teacher preparation programs. Because parts of the regulations require IHEs and States to establish or scale up certain systems and processes in order to collect information necessary for annual reporting, IHEs and States may incur one-time start-up costs for developing those systems and processes. The burden associated with start-up and annual reporting is reported separately in this statement.

Section 612.3 Reporting Requirements for the Institutional Report Cards

Section 205(a) of the HEA requires that each IHE that provides a teacher preparation program leading to State certification or licensure report on a statutorily enumerated series of data elements for the programs it provides. The HEOA revised a number of the reporting requirements for IHEs.

The final regulations under § 612.3(a) require that, beginning on April 1, 2018, and annually thereafter, each IHE that conducts traditional or alternative route teacher preparation programs leading to State initial teacher certification or licensure and that enrolls students receiving title IV, HEA funds report to the State on the quality of its programs using an IRC prescribed by the Secretary.

Start-Up Burden

Entity-Level and Program-Level Reporting

Under the current IRC, IHEs typically report at the entity level rather than the program level. For example, if an IHE offers multiple teacher preparation programs in a range of subject areas (for example, music education and special education), that IHE gathers data on each of those programs, aggregates the data, and reports the required information as a single teacher preparation entity on a single report card. Under the final regulations and for the reasons discussed in the NPRM and the preamble to this final rule, reporting is now required at the teacher preparation program level rather than at the entity level. No additional data must be gathered as a consequence of this regulatory requirement; instead, IHEs will simply report the required data before, rather than after, aggregation.

As a consequence, IHEs will not be required to alter appreciably their systems for data collection. However, the Department acknowledges that in order to communicate disaggregated data, minimal recordkeeping adjustments may be necessary. The Department estimates that initial burden for each IHE to adjust its recordkeeping

systems will be 10 hours per entity. In the most recent year for which data are available, 1,490 IHEs reported required data to the Department through the IRC. Therefore, the Department estimates that the one-time total burden for IHEs to adjust recordkeeping systems will be 14,900 hours (1,490 IHEs multiplied by 10 burden hours per IHE).

Subtotal of Start-Up Burden Under § 612.3

The Department believes that IHEs' experience during prior title II reporting cycles has provided sufficient knowledge to ensure that IHEs will not incur any significant start-up burden, except for the change from entity-level to program-level reporting described above. Therefore, the subtotal of start-up burden for § 612.3 is 14,900 hours.

Annual Reporting Burden

Changes to the Institutional Report Card

For a number of years IHEs have gathered, aggregated, and reported data on teacher preparation program characteristics, including those required under the HEOA, to the Department using the IRC approved under OMB control number 1840-0837. The required reporting elements of the IRC principally concern admissions criteria, student characteristics, clinical preparation, numbers of teachers prepared, accreditation of the program, and the pass rates and scaled scores of teacher candidates on State teacher certification and licensure examinations.

Given all of the reporting changes under these final rules as discussed in the NPRM, the Department estimates that each IHE will require 66 fewer burden hours to prepare the revised IRC annually. The Department estimates that each IHE will require 146 hours to complete the current IRC approved by OMB. There would thus be an annual burden of 80 hours to complete the revised IRC (146 hours minus 66 hours in reduced data collection). The Department estimates that 1,490 IHEs would respond to the IRC required under the regulations, based on reporting figures from the most recent year data are available. Therefore, reporting data using the IRC would represent a total annual reporting burden of 119,200 hours (80 hours multiplied by 1,490 IHEs).

Entity-Level and Program-Level Reporting

As noted in the start-up burden section of § 612.3, under the current IRC, IHEs report teacher preparation program data at the entity level. The final regulations require that each IHE

report disaggregated data at the teacher preparation program level. The Department believes this will not require any additional data collection or appreciably alter the time needed to calculate data reported to the Department. However, the Department believes that some additional reporting burden will exist for IHEs' electronic input and submission of disaggregated data because each IHE typically houses multiple teacher preparation programs.

Based on the most recent year of data available, the Department estimates that there are 27,914 teacher preparation programs at 1,490 IHEs nationwide. Based on these figures, the Department estimates that on average, each of these IHEs offers 16.40 teacher preparation programs. Because each IHE already collects disaggregated IRC data, the Department estimates it will take each IHE one additional hour to fill in existing disaggregated data into the electronic IRC for each teacher preparation program it offers. Because IHEs already have to submit an IRC for the IHE, we estimate that the added burden for reporting on a program level will be 15.40 hours (an average of 16.40 programs at one hour per program, minus the existing submission of one IRC for the IHE, or 15.40 hours). Therefore, each IHE will incur an average burden increase of 15.40 hours (1 hour multiplied by an average of 15.40 teacher preparation programs at each IHE), and there will be an overall burden increase of 22,946 hours each year associated with this regulatory reporting requirement (15.40 multiplied by 1,490 IHEs).

Posting on the Institution's Web site

The regulations also require that the IHE provide the information reported on the IRC to the general public by prominently and promptly posting the IRC information on the IHE's Web site. Because the Department believes it is reasonable to assume that an IHE offering a teacher preparation program and communicating data related to that program by electronic means maintains a Web site, the Department presumes that posting such information to an already-existing Web site will represent a minimal burden increase. The Department therefore estimates that IHEs will require 0.5 hours (30 minutes) to meet this requirement. This would represent a total burden increase of 745 hours each year for all IHEs (0.5 hours multiplied by 1,490 IHEs).

Subtotal of Annual Reporting Burden Under § 612.3

Aggregating the annual burdens calculated under the preceding sections

results in the following burdens: Together, all IHEs would incur a total burden of 119,200 hours to develop the systems needed to meet the requirements of the revised IRC, 22,946 hours to report program-level data, and 745 hours to post IRC data to their Web sites. This would constitute a total burden of 142,891 hours of annual burden nationwide.

Total Institutional Report Card Reporting Burden

Aggregating the start-up and annual burdens calculated under the preceding sections results in the following burdens: Together, all IHEs would incur a total start-up burden under § 612.3 of 14,900 hours and a total annual reporting burden under § 612.3 of 142,891 hours. This would constitute a total burden of 157,791 total burden hours under § 612.3 nationwide.

The burden estimate for the existing IRC approved under OMB control number 1840-0837 was 146 hours for each IHE with a teacher preparation program. When the current IRC was established, the Department estimated that 1,250 IHEs would provide information using the electronic submission of the form for a total burden of 182,500 hours for all IHEs (1,250 IHEs multiplied by 146 hours). Applying these estimates to the current number of IHEs that are required to report (1,490) would constitute a burden of 217,540 hours (1,490 IHEs multiplied by 146 hours). Based on these estimates, the revised IRC would constitute a net burden reduction of 59,749 hours nationwide (217,540 hours minus 157,791 hours).

Section 612.4 Reporting Requirements for the State Report Card

Section 205(b) of the HEA requires that each State that receives funds under the HEA provide to the Secretary and make widely available to the public not less than the statutorily required specific information on the quality of traditional and alternative route teacher preparation programs. The State must do so in a uniform and comprehensible manner, conforming with definitions and methods established by the Secretary. Section 205(c) of the HEA directs the Secretary to prescribe regulations to ensure the validity, reliability, accuracy, and integrity of the data submitted. Section 206(b) requires that IHEs assure the Secretary that their teacher training programs respond to the needs of LEAs, be closely linked with the instructional decisions novice teachers confront in the classroom, and prepare candidates to work with diverse

populations and in urban and rural settings, as applicable.

Implementing the relevant statutory directives, the regulations under § 612.4(a) require that, starting October 1, 2019, and annually thereafter, each State report on the SRC the quality of all approved teacher preparation programs in the State, whether or not they enroll students receiving Federal assistance under the HEA, including distance education programs. This new SRC, to be implemented in 2019, is an update of the current SRC. The State must also make the SRC information widely available to the general public by posting the information on the State's Web site.

Section 103(20) of the HEA and § 612.2(d) of the proposed regulations define "State" to include nine locations in addition to the 50 States: The Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Freely Associated States, which include the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. For this reason, all reporting required of States explicitly enumerated under § 205(b) of the HEA (and the related portions of the regulations, specifically §§ 612.4(a) and 612.6(b)), apply to these 59 States. However, certain additional regulatory requirements (specifically §§ 612.4(b), 612.4(c), 612.5, and 612.6(a)) only apply to the 50 States of the Union, the Commonwealth of Puerto Rico, and the District of Columbia. The burden estimates under those portions of this report apply to those 52 States. For a full discussion of the reasons for the application of certain regulatory provisions to different States, see the preamble to the NPRM.

Entity-Level and Program-Level Reporting

As noted in the start-up and annual burden sections of § 612.3, under the current information collection process, data are collected at the entity level, and the final regulations require data reporting at the program level. In 2015, States reported that there were 27,914 teacher preparation programs offered, including 24,430 at IHEs and 3,484 through alternative route teacher preparation programs not associated with IHEs. In addition, as discussed in the Supplemental NPRM, the Department estimates that the sections of these final regulations addressing teacher preparation programs offered through distance education will result in 812 additional reporting instances.

Because the remainder of the data reporting discussed in this burden statement is transmitted using the SRC, for those burden estimates concerning reporting on the basis of teacher preparation programs, the Department uses the estimate of 28,726 teacher preparation programs (27,914 teacher preparation programs plus 812 reporting instances related to teacher preparation programs offered through distance education).

Start Up and Annual Burden Under § 612.4(a)

Section 612.4(a) codifies State reporting requirements expressly referenced in section 205(b) of the HEA; the remainder of § 612.4 provides for reporting consistent with the directives to the Secretary under sections 205(b) and (c) and the required assurance described in section 206(c).

The HEOA revised a number of the reporting requirements for States. The requirements of the SRC are more numerous than those contained in the IRC, but the reporting elements required in both are similar in many respects. In addition, the Department has successfully integrated reporting to the extent that data reported by IHEs in the IRC is pre-populated in the relevant fields on which the States are required to report in the SRC. In addition to the elements discussed in § 612.3 of this burden statement regarding the IRC, under the statute a State must also report on its certification and licensure requirements and standards, State-wide pass rates and scaled scores, shortages of highly qualified teachers, and information related to low-performing or at-risk teacher preparation programs in the State.

The SRC currently in use, approved under OMB control number 1840–0837, collects information on these elements. States have been successfully reporting information under this collection for many years. The burden estimate for the existing SRC was 911 burden hours per State. In the burden estimate for that SRC, the Department reported that 59 States were required to report data, equivalent to the current requirements. This represented a total burden of 53,749 hours for all States (59 States multiplied by 911 hours). This burden calculation was made on entity-level, rather than program-level, reporting (for a more detailed discussion of the consequences of this issue, see the sections on entity-level and program-level reporting in §§ 612.3 and 612.4). However, because relevant program-level data reported by the IHEs on the IRC will be pre-populated for States on the SRC, the burden associated with

program-level reporting under § 612.4(a) will be minimal. Those elements that will require additional burden are discussed in the subsequent paragraphs of this section.

Elements Changed in the State Report Card

Using the calculations outlined in the NPRM and changes discussed above, the Department estimates that the total reporting burden for each State will be 243 hours (193 hours for the revised SRC plus the additional statutory reporting requirements totaling 50 hours). This would represent a reduction of 668 burden hours for each State to complete the requirements of the SRC, as compared to approved OMB collection 1840–0837 (911 burden hours under the current SRC compared to 243 burden hours under the revised SRC). The total burden for States to report this information would be 14,337 hours (243 hours multiplied by 59 States).

Posting on the State's Web Site

The final regulations also require that the State provide the information reported on the SRC to the general public by prominently and promptly posting the SRC information on the State's Web site. Because the Department believes it is reasonable to assume that each State that communicates data related to its teacher preparation programs by electronic means maintains a Web site, the Department presumes that posting such information to an already-existing Web site represents a minimal burden increase. The Department therefore estimates that States will require 0.5 hours (30 minutes) to meet this requirement. This would represent a total burden increase of 29.5 hours each year for all IHEs (0.5 hours multiplied by 59 States).

Subtotal § 612.4(a) Start-Up and Annual Reporting Burden

As noted in the preceding discussion, there is no start-up burden associated solely with § 612.4(a). Therefore, the aggregate start-up and annual reporting burden associated with reporting elements under § 612.4(a) would be 14,366.5 hours (243 hours multiplied by 59 States plus 0.5 hours for each of the 59 States).

Reporting Required Under § 612.4(b) and § 612.4(c)

The preceding burden discussion of § 612.4 focused on burdens related to the reporting requirements under section 205(b) of the HEA and reflected in 34 CFR 612.4(a). The remaining burden discussion of § 612.4 concerns

reporting required under § 612.4(b) and (c).

Start-Up Burden

Meaningful Differentiations

Under § 612.4(b)(1), a State is required to make meaningful differentiations in teacher preparation program performance using at least three performance levels—low-performing teacher preparation program, at-risk teacher preparation program, and effective teacher preparation program—based on the indicators in § 612.5 and including employment outcomes for high-need schools and student learning outcomes.

The Department believes that State higher education authorities responsible for making State-level classifications of teacher preparation programs will require time to make meaningful differentiations in their classifications and determine whether alternative performance levels are warranted. States are required to consult with external stakeholders, review best practices by early adopter States that have more experience in program classification, and seek technical assistance.

States will also have to determine how they will make such classifications. For example, a State may choose to classify all teacher preparation programs on an absolute basis using a cut-off score that weighs the various indicators, or a State may choose to classify teacher preparation programs on a relative basis, electing to classify a certain top percentile as exceptional, the next percentile as effective, and so on. In exercising this discretion, States may choose to consult with various external and internal parties and discuss lessons learned with those States already making such classifications of their teacher preparation programs.

The Department estimates that each State will require 70 hours to make these determinations, and this would constitute a one-time total burden of 3,640 hours (70 hours multiplied by 52 States).

Assurance of Specialized Accreditation

Under § 612.4(b)(3)(i)(A), for each teacher preparation program, a State must provide disaggregated data for each of the indicators identified pursuant to § 612.5. See the start-up burden section of § 612.5 for a more detailed discussion of the burden associated with gathering the indicator data required to be reported under this regulatory section. See the annual reporting burden section of § 612.4 for a discussion of the ongoing reporting burden associated with reporting

disaggregated indicator data under this regulation. No further burden exists beyond the burden described in these two sections.

Under § 612.4(b)(3)(i)(B), a State is required to provide, for each teacher preparation program in the State, the State's assurance that the teacher preparation program either: (a) Is accredited by a specialized agency or (b) provides teacher candidates with content and pedagogical knowledge, quality clinical preparation, and rigorous teacher exit qualifications. See the start-up burden section of § 612.5 for a detailed discussion of the burden associated with gathering the indicator data required to be reported under this regulation. See the annual reporting burden section of § 612.4 for a discussion of the ongoing reporting burden associated with reporting these assurances. No further burden exists beyond the burden described in these two sections.

Indicator Weighting

Under § 612.4(b)(2)(ii), a State must provide its weighting of the different indicators in § 612.5 for purposes of describing the State's assessment of program performance. See the start-up burden section of § 612.4 on stakeholder consultation for a detailed discussion of the burden associated with establishing the weighting of the various indicators under § 612.5. See the annual reporting burden section of § 612.4 for a discussion of the ongoing reporting burden associated with reporting these relative weightings. No further burden exists beyond the burden described in these two sections.

State-Level Rewards or Consequences

Under § 612.4(b)(2)(iii), a State must provide the State-level rewards or consequences associated with the designated performance levels. See the start-up burden section of § 612.4 on stakeholder consultation for a more detailed discussion of the burden associated with establishing these rewards or consequences. See the annual reporting burden section of § 612.4 for a discussion of the ongoing reporting burden associated with reporting these relative weightings. No further burden exists beyond the burden described in these two sections.

Aggregation of Small Programs

Under § 612.4(b)(3), a State must ensure that all of its teacher preparation programs in that State are represented on the SRC. The Department recognized that many teacher preparation programs consist of a small number of prospective teachers and that reporting on these

programs could present privacy and data validity issues. After discussion and input from various non-Federal negotiators during the negotiated rulemaking process, the Department elected to set a required reporting program size threshold of 25. However, the Department realized that, on the basis of research examining accuracy and validity relating to reporting small program sizes, some States may prefer to report on programs smaller than 25. Section 612.4(b)(3)(i) permits States to report using a lower program size threshold. In order to determine the preferred program size threshold for its programs, a State may review existing research or the practices of other States that set program size thresholds to determine feasibility for its own teacher preparation program reporting. The Department estimates that such review will require 20 hours for each State, and this would constitute a one-time total burden of 1,040 hours (20 hours multiplied by 52 States).

Under § 612.4(b)(3), all teacher preparation entities must report on the remaining small programs that do not meet the program size threshold the State chooses. States will be able to do so through a combination of two possible aggregation methods described in § 612.4(b)(3)(ii). The preferred aggregation methodology is to be determined by the States after consultation with a group of stakeholders. For a detailed discussion of the burden related to this consultation process, see the start-up burden section of § 612.4, which discusses the stakeholder consultation process. Apart from the burden discussed in that section, no other burden is associated with this requirement.

Stakeholder Consultation

Under § 612.4(c), a State must consult with a representative group of stakeholders to determine the procedures for assessing and reporting the performance of each teacher preparation program in the State. This stakeholder group, composed of a variety of members representing viewpoints and interests affected by these regulations, must provide input on a number of issues concerning the State's discretion. There are four issues in particular on which the stakeholder group advises the State—

- a. The relative weighting of the indicators identified in § 612.5;
- b. The preferred method for aggregation of data such that performance data for a maximum number of small programs are reported;

c. The State-level rewards or consequences associated with the designated performance levels; and

- d. The appropriate process and opportunity for programs to challenge the accuracy of their performance data and program classification.

The Department believes that this consultative process will require that the group convene at least three times to afford each of the stakeholder representatives multiple opportunities to meet and consult with the constituencies they represent. Further, the Department believes that members of the stakeholder group will require time to review relevant materials and academic literature and advise on the relative strength of each of the performance indicators under § 612.5, as well as any other matters requested by the State.

These stakeholders will also require time to advise whether any of the particular indicators will have more or less predictive value for the teacher preparation programs in their State, given its unique traits. Finally, because some States have already implemented one or more components of the regulatory indicators of program quality, these stakeholders will require time to review these States' experiences in implementing similar systems. The Department estimates that the combination of gathering the stakeholder group multiple times, review of the relevant literature and other States' experiences, and making determinations unique to their particular State will take 900 hours for each State (60 hours per stakeholder multiplied by 15 stakeholders). This would constitute a one-time total of 46,800 hours for all States (900 hours multiplied by 52 States).

Subtotal of Start-Up Burden Under § 612.4(b) and § 612.4(c)

Aggregating the start-up burdens calculated under the preceding sections results in the following burdens: All States would incur a total burden of 3,640 hours to make meaningful differentiations in program classifications, 1,040 hours to determine the State's aggregation of small programs, and 46,800 hours to complete the stakeholder consultation process. This would constitute a total of 51,480 hours of start-up burden nationwide.

Annual Reporting Burden

Classification of Teacher Preparation Programs

The bulk of the State burden associated with assigning programs among classification levels should be in

gathering and compiling data on the indicators of program quality that compose the basis for the classification. Once a State has made a determination of how a teacher preparation program will be classified at a particular performance level, applying the data gathered under § 612.5 to this classification basis is straightforward. The Department estimates that States will require 0.5 hours (30 minutes) to apply already-gathered indicator data to existing program classification methodology. The total burden associated with classification of all teacher preparation programs using meaningful differentiations would be 14,363 hours each year (0.5 hours multiplied by 28,726 teacher preparation programs).

Disaggregated Data on Each Indicator in § 612.5

Under § 612.4(b)(2)(i)(A), States must report on the indicators of program performance in § 612.5. For a full discussion of the burden related to the reporting of this requirement, see the annual reporting burden section of § 612.5. Apart from the burden discussed in this section, no other burden is associated with this requirement.

Indicator Weighting

Under § 612.4(b)(2)(ii), States must report the relative weight it places on each of the different indicators enumerated in § 612.5. The burden associated with this reporting is minimal: After the State, in consultation with a group of stakeholders, has made the determination about the percentage weight it will place on each of these indicators, reporting this information on the SRC is a simple matter of inputting a number for each of the indicators. Under § 612.5, this minimally requires the State to input eight general indicators of quality.

Note: The eight indicators are—

- a. Associated student learning outcome results;
- b. Teacher placement results;
- c. Teacher retention results;
- d. Teacher placement rate calculated for high-need school results;
- e. Teacher retention rate calculated for high-need school results;
- f. Teacher satisfaction survey results;
- g. Employer satisfaction survey results; and
- h. Teacher preparation program characteristics.

This reporting burden will not be affected by the number of teacher preparation programs in a State, because such weighting applies equally to each program. Although the State has the discretion to add indicators, the

Department does not believe that transmission of an additional figure representing the percentage weighting assigned to that indicator will constitute an appreciable burden increase. The Department therefore estimates that each State will incur a burden of 0.25 hours (15 minutes) to report the relative weighting of the regulatory indicators of program performance. This would constitute a total burden on States of 13 hours each year (0.25 hours multiplied by 52 States).

State-Level Rewards or Consequences

Similar to the reporting required under § 612.4(b)(2)(ii), after a State has made the requisite determination about rewards and consequences, reporting those rewards and consequences represents a relatively low burden. States must report this on the SRC during the first year of implementation, the SRC could provide States with a drop-down list representing common rewards or consequences in use by early adopter States, and States can briefly describe those rewards or consequences not represented in the drop-down options. For subsequent years, the SRC could be pre-populated with the prior-year's selected rewards and consequences, such that there will be no further burden associated with subsequent year reporting unless the State altered its rewards and consequences. For these reasons, the Department estimates that States will incur, on average, 0.5 hours (30 minutes) of burden in the first year of implementation to report the State-level rewards and consequences, and 0.1 hours (6 minutes) of burden in each subsequent year. The Department therefore estimates that the total burden for the first year of implementation of this regulatory requirement will be 26 hours (0.5 hours multiplied by 52 States) and 5.2 hours each year thereafter (0.1 hours multiplied by 52 States).

Stakeholder Consultation

Under § 612.4(b)(4), during the first year of reporting and every five years thereafter, States must report on the procedures they established in consultation with the group of stakeholders described under § 612.4(c)(1). The burden associated with the first and third of these four procedures, the weighting of the indicators and State-level rewards and consequences associated with each performance level, respectively, are discussed in the preceding paragraphs of this section.

The second procedure, the method by which small programs are aggregated, is

a relatively straightforward reporting procedure on the SRC. Pursuant to § 612.4(b)(3)(ii), States are permitted to use one of two methods, or a combination of both in aggregating small programs. A State can aggregate programs that are similar in teacher preparation subject matter. A State can also aggregate using prior year data, including that of multiple prior years. Or a State can use a combination of both methods. On the SRC, the State simply indicates the method it uses. The Department estimates that States will require 0.5 hours (30 minutes) to enter these data every fifth year. On an annualized basis, this would therefore constitute a total burden of 5.2 hours (0.5 hours multiplied by 52 States divided by five to annualize burden for reporting every fifth year).

The fourth procedure that States must report under § 612.4(b)(4) is the method by which teacher preparation programs in the State are able to challenge the accuracy of their data and the classification of their program. First, the Department believes that States will incur a paperwork burden each year from recordkeeping and publishing decisions of these challenges. Because the Department believes the instances of these appeals will be relatively rare, we estimate that each State will incur 10 hours of burden each year related to recordkeeping and publishing decisions. This would constitute an annual reporting burden of 520 hours (10 hours multiplied by 52 States).

After States and their stakeholder groups determine the preferred method for programs to challenge data, reporting that information will likely take the form of narrative responses. This is because the method for challenging data may differ greatly from State to State, and it is difficult for the Department to predict what methods States will choose. The Department therefore estimates that reporting this information in narrative form during the first year will constitute a burden of 3 hours for each State. This would represent a total reporting burden of 156 hours (3 hours multiplied by 52 States).

In subsequent reporting cycles, the Department can examine State responses and (1) pre-populate this response for States that have not altered their method for challenging data or (2) provide a drop-down list of representative alternatives. This will minimize subsequent burden for most States. The Department therefore estimates that in subsequent reporting cycles (every five years under the final regulations), only 10 States will require more time to provide additional narrative responses totaling 3 burden

hours each, with the remaining 42 States incurring a negligible burden. This represents an annualized reporting burden of 6 hours for those 10 States (3 hours multiplied by 10 States, divided by 5 years), for a total annualized reporting burden of 60 hours for subsequent years (6 hours multiplied by 10 States).

Under § 612.4(c)(2), each State must periodically examine the quality of its data collection and reporting activities and modify those activities as appropriate. The Department believes that this review will be carried out in a manner similar to the one described for the initial stakeholder determinations in the preceding paragraphs: States will consult with representative groups to determine their experience with providing and using the collected data, and they will consult with data experts to ensure the validity and reliability of the data collected. The Department believes such a review will recur every three years, on average. Because this review will take place years after the State's initial implementation of the regulations, the Department further believes that the State's review will be of relatively little burden. This is because the State's review will be based on the State's own experience with collecting and reporting data pursuant to the regulations, and because States can consult with many other States to determine best practices. For these reasons, the Department estimates that the periodic review and modification of data collection and reporting will require 30 hours every three years or an annualized burden of 10 hours for each State. This would constitute a total annualized burden of 520 hours for all States (10 hours per year multiplied by 52 States).

Subtotal Annual Reporting Burden Under § 612.4(b) and § 612.4(c)

Aggregating the annual burdens calculated under the preceding sections results in the following: All States would incur a burden of 14,363 hours to report classifications of teacher preparation programs, 13 hours to report State indicator weightings, 26 hours in the first year and 5.2 hours in subsequent years to report State-level rewards and consequences associated with each performance classification, 5.2 hours to report the method of program aggregation, 520 hours for recordkeeping and publishing appeal decisions, 156 hours the first year and 60 hours in subsequent years to report the process for challenging data and program classification, and 520 hours to report on the examination of data collection quality. This totals 15,603.2

hours of annual burden in the first year and 15,486.4 hours of annual burden in subsequent years nationwide.

Total Reporting Burden Under § 612.4

Aggregating the start-up and annual burdens calculated under the preceding sections results in the following burdens: All States would incur a total burden under § 612.4(a) of 14,366.5 hours, a start-up burden under §§ 612.4(b) and 612.4(c) of 51,480 hours, and an annual burden under §§ 612.4(b) and 612.4(c) of 15,603.2 hours in the first year and 15,486.4 hours in subsequent years. This totals between 81,332.9 and 81,449.7 total burden hours under § 612.4 nationwide. Based on the prior estimate of 53,749 hours of reporting burden on OMB collection 1840–0837, the total burden increase under § 612.4 is between 27,583.9 hours and 27,700.7 hours (53,749 hours minus a range of 81,332.9 and 81,449.7 total burden hours).

Section 612.5 Indicators a State Must Use To Report on Teacher Preparation Program Performance

The final regulations at § 612.5(a)(1) through (a)(4) identify those indicators that a State is required to use to assess the academic content knowledge and teaching skills of novice teachers from each of its teacher preparation programs. Under the regulations, a State must use the following indicators of teacher preparation program performance: (a) Student learning outcomes, (b) employment outcomes, (c) survey outcomes, and (d) whether the program (1) is accredited by a specialized accrediting agency or (2) produces teacher candidates with content and pedagogical knowledge and quality clinical preparation, who have met rigorous exit standards. Section 612.5(b) permits a State, at its discretion, to establish additional indicators of academic content knowledge and teaching skills.

Start-Up Burden

Student Learning Outcomes

As described in the Discussion of Costs, Benefits, and Transfers section of the RIA, we do not estimate that States will incur any additional burden associated with creating systems for evaluating student learning outcomes. However, the regulations also require that States link student growth or teacher evaluation data back to each teacher's preparation programs consistent with State discretionary guidelines included in § 612.4. Currently, few States have such capacity. However, based on data from the SLDS program, it appears that 30

States, the District of Columbia, and the Commonwealth of Puerto Rico either already have the ability to aggregate data on student achievement and map back to teacher preparation programs or have committed to do so. For these 30 States, the District of Columbia, and the Commonwealth of Puerto Rico we estimate that no additional costs will be needed to link student learning outcomes back to teacher preparation programs.

For the remaining States, the Department estimates that they will require 2,940 hours for each State, for a total burden of 58,800 hours nationwide (2,940 hours multiplied by 20 States).

Employment Outcomes

Section 612.5(a)(2) requires a State to provide data on each teacher preparation program's teacher placement rate as well as the teacher placement rate calculated for high-need schools. High-need schools are defined in § 612.2(d) by using the definition of "high-need school" in section 200(11) of the HEA. The regulations give States discretion to exclude those novice teachers or recent graduates from this measure if they are teaching in a private school, teaching in another State, enrolled in graduate school, or engaged in military service. States also have the discretion to treat this rate differently for alternative route and traditional route providers.

Section 612.5(a)(2) requires a State to provide data on each teacher preparation program's teacher retention rate and teacher retention rate calculated for high-need schools. The regulations give States discretion to exclude those novice teachers or recent graduates from this measure if they are teaching in a private school (or other school not requiring State certification), another State, enrolled in graduate school, or serving in the military. States also have the discretion to treat this rate differently for alternative route and traditional route providers.

As discussed in the NPRM, the Department believes that only 11 States will likely incur additional burden in collecting information about the employment and retention of recent graduates of teacher preparation programs in its jurisdiction. To the extent that it is not possible to establish these measures using existing data systems, States may need to obtain some or all of this information from teacher preparation programs or from the teachers themselves upon requests for certification and licensure. The Department estimates that 200 hours may be required at the State level to collect information about novice

teachers employed in full-time teaching positions (including designing the data request instruments, disseminating them, providing training or other technical assistance on completing the instruments, collecting the data, and checking their accuracy), which would amount to a total of 2,200 hours (200 hours multiplied by 11 States).

Survey Outcomes

Section 612.5(a)(3) requires a State to provide data on each teacher preparation program's teacher survey results. This requires States to report data from a survey of novice teachers in their first year of teaching designed to capture their perceptions of whether the training that they received was sufficient to meet classroom and profession realities.

Section 612.5(a)(3) also requires a State to provide data on each teacher preparation program's employer survey results. This requires States to report data from a survey of employers or supervisors designed to capture their perceptions of whether the novice teachers they employ or supervise were prepared sufficiently to meet classroom and profession realities.

Some States and IHEs already survey graduates of their teacher preparation programs. The sampling size and length of survey instrument can strongly affect the potential burden associated with administering the survey. The Department has learned that some States already have experience carrying out such surveys (for a more detailed discussion of these and other estimates in this section, see the *Discussion of Costs, Benefits and Transfers* section regarding student learning outcomes in the RIA). In order to account for variance in States' abilities to conduct such surveys, the variance in the survey instruments themselves, and the need to ensure statistical validity and reliability, the Department assumes a somewhat higher burden estimate than States' initial experiences.

Based on Departmental consultation with researchers experienced in carrying out survey research, the Department assumes that survey instruments will not require more than 30 minutes to complete. The Department further assumes that a State can develop a survey in 1,224 hours. Assuming that States with experience in administering surveys will incur a lower cost, the Department assumes that the total burden incurred nationwide would maximally be 63,648 hours (1,224 hours multiplied by 52 States).

Teacher Preparation Program Characteristics

Under § 612.5(a)(4), States must report, for each teacher preparation program in the State whether it: (a) Is accredited by a specialized accrediting agency recognized by the Secretary for accreditation of professional teacher education programs, or (b) provides teacher candidates with content and pedagogical knowledge and quality clinical preparation, and has rigorous teacher candidate exit standards.

CAEP, a union of two formerly independent national accrediting agencies, the National Council for Accreditation of Teacher Education (NCATE) and the Teacher Education Accreditation Council (TEAC), reports that currently it has fully accredited approximately 800 IHEs. The existing IRC currently requires reporting of whether each teacher preparation program is accredited by a specialized accrediting agency, and if so, which one. We note that, as of July 1, 2016, CAEP has not been recognized by the Secretary for accreditation of teacher preparation programs. As such, programs accredited by CAEP would not qualify under § 612.5(a)(4)(i). However, as described in the discussion of comments above, States would be able to use accreditation by CAEP as an indicator that the teacher preparation program meets the requirements of § 612.5(a)(4)(ii). In addition, we explain in the comments above that a State also could meet the reporting requirements in § 612.5(a)(4)(ii) by indicating that a program has been accredited by an accrediting organization whose standards cover the program characteristics identified in that section. Because section 205(a)(1)(D) of the HEA requires IHEs to include in their IRCs the identity of any agency that has accredited their programs, and the number of such accrediting agencies is small, States should readily know whether these other agencies meet these standards. For these reasons, the Department believes that no significant start-up burden will be associated with State determinations of specialized accreditation of teacher preparation programs for those programs that are already accredited.

As discussed in the NPRM, the Department estimates that States will have to provide information for 15,335 teacher preparation programs nationwide (11,461 unaccredited programs at IHEs plus 3,484 programs at alternative routes not affiliated with an IHE plus 390 reporting instances for teacher preparation programs offered through distance education).

The Department believes that States will be able to make use of accreditation guidelines from specialized accrediting agencies to determine the measures that will adequately inform them about which of its teacher preparation programs provide teacher candidates with content and pedagogical knowledge, quality clinical preparation, and have rigorous teacher candidate exit qualifications—the indicators contained in § 612.5(a)(4)(ii). The Department estimates that States will require 2 hours for each teacher preparation program to determine whether or not it can provide such information. Therefore, the Department estimates that the total reporting burden to provide this information would be 30,670 hours (15,335 teacher preparation programs multiplied by 2 hours).

Subtotal of Start-Up Reporting Burden Under § 612.5

Aggregating the start-up burdens calculated under the preceding sections results in the following burdens: All States would incur a burden of 58,800 hours to link student learning outcome measures back to each teacher's preparation program, 2,200 hours to measure employment outcomes, 63,648 hours to develop surveys, and 30,670 hours to establish the process to obtain information related to certain indicators for teacher preparation programs without specialized accreditation. This totals 155,318 hours of start-up burden nationwide.

Annual Reporting Burden

Under § 612.5(a), States must transmit, through specific elements on the SRC, information related to indicators of academic content knowledge and teaching skills of novice teachers for each teacher preparation program in the State. We discuss the burden associated with establishing systems related to gathering these data in the section discussing start-up burden associated with § 612.5. The following section describes the burden associated with gathering these data and reporting them to the Department annually.

Student Learning Outcomes

Under § 612.5(a)(1), States are required to transmit information related to student learning outcomes for each teacher preparation program in the State. The Department believes that in order to ensure the validity of the data, each State will require two hours to gather and compile data related to the student learning outcomes of each teacher preparation program. Much of

the burden related to data collection will be built into State-established reporting systems, limiting the burden related to data collection to technical support to ensure proper reporting and to correct data that had been inputted incorrectly. States have the discretion to use student growth measures or teacher evaluation measures in determining student learning outcomes. Regardless of the measure(s) used, the Department estimates that States will require 0.5 hours (30 minutes) for each teacher preparation program to convey this information to the Department through the SRC. This is because these measures will be calculated on a quantitative basis. The combination of gathering and reporting data related to student learning outcomes therefore constitutes a burden of 2.5 hours for each teacher preparation program, and would represent a total burden of 71,815 hours annually (2.5 hours multiplied by 28,726 teacher preparation programs).

Employment Outcomes

Under § 612.5(a)(2), States are required to transmit information related to employment outcomes for each teacher preparation program in the State. In order to report employment outcomes to the Department, States must compile and transmit teacher placement rate data, teacher placement rate data calculated for high-need schools, teacher retention rate data, and teacher retention rate data for high-need schools. Similar to the process for reporting student learning outcome data, much of the burden related to gathering data on employment outcomes is subsumed into the State-established data systems, which provides information on whether and where teachers were employed. The Department estimates that States will require 3 hours to gather data both on teacher placement and teacher retention for each teacher preparation program in the State. Reporting these data using the SRC is relatively straightforward. The measures are the percentage of teachers placed and the percentage of teachers who continued to teach, both generally and at high-need schools. The Department therefore estimates that States will require 0.5 hours (30 minutes) for each teacher preparation program to convey this information to the Department through the SRC. The combination of gathering and reporting data related to employment outcomes therefore constitutes a burden of 3.5 hours for each teacher preparation program and would represent a total burden of 100,541 hours annually (3.5 hours multiplied by 28,726 teacher preparation programs).

Survey Outcomes

In addition to the start-up burden needed to produce a survey, States will incur annual burdens to administer the survey. Surveys will include, but will not be limited to, a teacher survey and an employer survey, designed to capture perceptions of whether novice teachers who are employed as teachers in their first year of teaching in the State where the teacher preparation program is located possess the skills needed to succeed in the classroom. The burdens for administering an annual survey will be borne by the State administering the survey and the respondents completing it. For the reasons discussed in the RIA in this document, the Department estimates that States will require approximately 0.5 hours (30 minutes) per respondent to collect a sufficient number of survey instruments to ensure an adequate response rate. The Department employs an estimate of 253,042 respondents (70 percent of 361,488—the 180,744 completers plus their 180,744 employers) that will be required to complete the survey. Therefore, the Department estimates that the annual burden to respondents nationwide would be 126,521 hours (253,042 respondents multiplied by 0.5 hours per respondent).

With respect to burden incurred by States to administer the surveys annually, the Department estimates that one hour of burden will be incurred for every respondent to the surveys. This would constitute an annual burden nationwide of 253,042 hours (253,042 respondents multiplied by one hour per respondent).

Under § 612.5(a)(3), after these surveys are administered, States are required to report the information using the SRC. In order to report survey outcomes to the Department, the Department estimates that States will need 0.5 hours to report the quantitative data related to the survey responses for each instrument on the SRC, constituting a total burden of one hour to report data on both instruments. This would represent a total burden of 28,726 hours annually (1 hour multiplied by 28,726 teacher preparation programs). The total burden associated with administering, completing, and reporting data on the surveys therefore constitutes 408,289 hours annually (126,521 hours plus 253,042 hours plus 28,726 hours).

Teacher Preparation Program Characteristics

Under § 612.5(a)(4), States are required to report whether each program in the State is accredited by a

specialized accrediting agency recognized by the Secretary, or produces teacher candidates with content and pedagogical knowledge, with quality clinical preparation, and who have met rigorous teacher candidate exit qualifications. The Department estimates that 726 IHEs offering teacher preparation programs are or will be accredited by a specialized accrediting agency (see the start-up burden discussion for § 612.5 for an explanation of this figure). Using the IRC, IHEs already report to States whether teacher preparation programs have specialized accreditation. However, as noted in the start-up burden discussion of § 612.5, as of July 1, 2016, there are no specialized accrediting agencies recognized by the Secretary for teacher preparation programs. As such, the Department does not expect any teacher preparation program to qualify under § 612.5(a)(4)(i). However, as discussed elsewhere in this document, States can use accreditation by CAEP or another entity whose standards for accreditation cover the basic program characteristics in § 612.5(a)(4)(ii) as evidence that the teacher preparation program has satisfied the indicator of program performance in that provision. Since IHEs are already reporting whether they have specialized accreditation in their IRCs, and this reporting element will be pre-populated for States on the SRC, States would simply need to know whether these accrediting agencies have standards that examine the program characteristics in § 612.5(a)(4)(ii). Therefore, the Department estimates no additional burden for this reporting element for programs that have the requisite accreditation.

Under § 612.5(a)(4)(ii), for those programs that are not accredited by a specialized accrediting agency, States are required to report on certain indicators in lieu of that accreditation: Whether the program provides teacher candidates with content and pedagogical knowledge and quality clinical preparation, and has rigorous teacher candidate exit qualifications. We assume that such requirements are already built into State approval of relevant programs. The Department estimates that States will require 0.25 hours (15 minutes) to provide to the Secretary an assurance, in a yes/no format, whether each teacher preparation program in its jurisdiction not holding a specialized accreditation from CAEP, NCATE, or TEAC meets these indicators.

As discussed in the start-up burden section of § 612.5 which discusses reporting of teacher preparation program characteristics, the Department

estimates States will have to provide such assurances for 15,335 teacher preparation programs that do not have specialized accreditation. Therefore, the Department estimates that the total burden associated with providing an assurance that these teacher preparation programs meet these indicators is 3,834 hours (0.25 hours multiplied by the 15,335 teacher preparation programs that do not have specialized accreditation).

Other Indicators

Under § 612.5(b), States may include additional indicators of academic content knowledge and teaching skill in their determination of whether teacher preparation programs are low-performing. As discussed in the *Discussion of Costs, Benefits, and Transfers* section of the RIA, we do not assume that States will incur any additional burden under this section beyond entering the relevant data into the information collection instrument. The Department estimates that the total reporting burden associated with this provision will be 28,726 hours (28,726 teacher preparation programs multiplied by 1 hour).

Subtotal of Annual Reporting Burden Under § 612.5

Aggregating the annual burdens calculated under the preceding sections results in the following burdens: All States would incur a burden of 71,815 hours to report on student learning outcome measures for all subjects and grades, 100,541 hours to report on employment outcomes, 408,289 hours to report on survey outcomes, 3,834 hours to report on teacher preparation program characteristics, and 28,726 hours to report on other indicators not required in § 612.5(a)(1)–(4). This totals 613,204.75 hours of annual burden nationwide.

Total Reporting Burden Under § 612.5

Aggregating the start-up and annual burdens calculated under the preceding sections results in the following burdens: All States would incur a start-up burden under § 612.5 of 155,318 hours and an annual burden under § 612.5 of 613,204.75 hours. This totals 768,522.75 burden hours under § 612.5 nationwide.

Section 612.6 What Must a State Consider in Identifying Low-Performing Teacher Preparation Programs or At-Risk Programs?

The regulations in § 612.6 require States to use criteria, including, at a minimum, indicators of academic content knowledge and teaching skills

from § 612.5, to identify low-performing or at-risk teacher preparation programs.

For a full discussion of the burden related to the consideration and selection of the criteria reflected in the indicators described in § 612.5, see the start-up burden section of §§ 612.4(b) and 612.4(c) discussing meaningful differentiations. Apart from that burden discussion, the Department believes States will incur no other burden related to this regulatory provision.

Section 612.7 Consequences for a Low-Performing Teacher Preparation Program That Loses the State's Approval or the State's Financial Support

For any IHE administering a teacher preparation program that has lost State approval or financial support based on being identified as a low-performing teacher preparation program, the regulations under § 612.7 require the IHE to—(a) notify the Secretary of its loss of State approval or financial support within thirty days of such designation; (b) immediately notify each student who is enrolled in or accepted into the low-performing teacher preparation program and who receives funding under title IV, HEA that the IHE is no longer eligible to provide such funding to them; and (c) disclose information on its Web site and promotional materials regarding its loss of State approval or financial support and loss of eligibility for title IV funding.

The Department does not expect that a large percentage of programs will be subject to a loss of title IV eligibility. The Department estimates that approximately 50 programs will lose their State approval or financial support.

For those 50 programs, the Department estimates that it will take each program 15 minutes to notify the Secretary of its loss of eligibility; 5 hours to notify all students who are enrolled in or accepted into the program and who receive funding under title IV of the HEA; and 30 minutes to disclose this information on its Web sites and promotional materials, for a total of 5.75 hours per program. The Department estimates the total burden at 287.5 hours (50 programs multiplied by 5.75 hours).

Section 612.8 Regaining Eligibility To Accept or Enroll Students Receiving Title IV, HEA Funds After Loss of State Approval or Financial Support

The regulations in § 612.8 provide a process for a low-performing teacher preparation program that has lost State approval or financial support to regain its ability to accept and enroll students who receive title IV, HEA funds. Under

this process, IHEs will submit an application and supporting documentation demonstrating to the Secretary: (1) Improved performance on the teacher preparation program performance criteria reflected in indicators described in § 612.5 as determined by the State; and (2) reinstatement of the State's approval or the State's financial support.

The process by which programs and institutions apply for title IV eligibility already accounts for the burden associated with this provision.

Total Reporting Burden Under Part 612

Aggregating the total burdens calculated under the preceding sections of part 612 results in the following burdens: Total burden hours incurred under § 612.3 is 157,791 hours, under § 612.4 is between 81,332.9 hours and 81,449.7 hours, under § 612.5 is 768,522.75 hours, under § 612.7 is 287.5 hours, and under § 612.8 is 200 hours. This totals between 1,008,134.15 hours and 1,008,250.95 hours nationwide.

Reporting Burden Under Part 686

The changes to part 686 in these regulations have no measurable effect on the burden currently identified in the OMB Control Numbers 1845–0083 and 1845–0084.

Consistent with the discussions above, the following chart describes the sections of the final regulations involving information collections, the information being collected, and the collections the Department has submitted to the OMB for approval and public comment under the Paperwork Reduction Act. In the chart, the Department labels those estimated burdens not already associated an OMB approval number under a single prospective designation “OMB 1840–0837.” This label represents a single information collection; the different sections of the regulations are separated in the table below for clarity and to appropriately divide the burden hours associated with each regulatory section.

Please note that the changes in burden estimated in the chart are based on the change in burden under the current IRC OMB control numbers 1840–0837 and “OMB 1840–0837.” The burden estimate for 612.3 is based on the most recent data available for the number of IHEs that are required to report (*i.e.* 1,522 IHEs using most recent data available rather than 1,250 IHEs using prior estimates). For a complete discussion of the costs associated with the burden incurred under these regulations, please see the RIA in this document, specifically the accounting statement.

Regulatory section	Information collection	OMB Control No. and estimated change in the burden
612.3	This section requires IHEs that provide a teacher preparation program leading to State certification or licensure to provide data on teacher preparation program performance to the States.	OMB 1840–0837—The burden will decrease by 64,421 hours.
612.4	This section requires States that receive funds under the Higher Education Act of 1965, as amended, to report to the Secretary on the quality of teacher preparation in the State, both for traditional teacher preparation programs and for alternative route to State certification and licensure programs.	OMB 1840–0837—The burden will increase by between 27,700.7 hours.
612.5	This regulatory section requires States to use certain indicators of teacher preparation performance for purposes of the State report card.	OMB 1840–0837—The burden will increase by 768,522.75.
612.6	This regulatory section requires States to use criteria, including indicators of academic content knowledge and teaching skills, to identify low-performing or at-risk teacher preparation programs.	OMB 1840–0837—The burden associated with this regulatory provision is accounted for in other portions of this burden statement.
612.7	The regulations under this section require any IHE administering a teacher preparation program that has lost State approval or financial support based on being identified as a low-performing teacher preparation program to notify the Secretary and students receiving title IV, HEA funds, and to disclose this information on its Web site.	OMB 1840–0837—The burden will increase by 287.5 hours.
612.8	The regulations in this section provide a process for a low-performing teacher preparation program that lost State approval or financial support to regain its ability to accept and enroll students who receive title IV funds.	OMB 1840–0837—The burden will increase by 200 hours.
Total Change in Burden.		Total increase in burden under parts 612 will be between 732,173.15 hours and 732,289.95 hours.

Intergovernmental Review

These programs are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

Assessment of Educational Impact

In the NPRM we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and on our 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.

Federalism

Executive Order 13132 requires us to ensure meaningful and timely input by State and local elected officials in the development of regulatory policies that

have federalism implications.

“Federalism implications” means substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

In the NPRM we identified a specific section that may have federalism implications and encouraged State and local elected officials to review and provide comments on the proposed regulations. In the *Public Comment* section of this preamble, we discuss any comments we received on this subject.

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List of Subjects in 34 CFR Parts 612 and 686

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

Dated: October 11, 2016.

John B. King, Jr.,
Secretary of Education.

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

■ 1. Part 612 is added to read as follows:

PART 612—TITLE II REPORTING SYSTEM

Subpart A—Scope, Purpose, and Definitions

Sec.

612.1 Scope and purpose.

612.2 Definitions.

Subpart B—Reporting Requirements

612.3 What are the regulatory reporting requirements for the Institutional Report Card?

612.4 What are the regulatory reporting requirements for the State Report Card?

612.5 What indicators must a State use to report on teacher preparation program performance for purposes of the State report card?

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Subpart C—Consequences of Withdrawal of State Approval or Financial Support

612.7 What are the consequences for a low-performing teacher preparation program that loses the State's approval or the State's financial support?

612.8 How does a low-performing teacher preparation program regain eligibility to accept or enroll students receiving Title IV, HEA funds after loss of the State's approval or the State's financial support?

Authority: 20 U.S.C. 1022d and 1022f.

Subpart A—Scope, Purpose, and Definitions

§ 612.1 Scope and purpose.

This part establishes regulations related to the teacher preparation program accountability system under title II of the HEA. This part includes:

(a) Institutional Report Card reporting requirements.

(b) State Report Card reporting requirements.

(c) Requirements related to the indicators States must use to report on teacher preparation program performance.

(d) Requirements related to the areas States must consider to identify low-performing teacher preparation programs and at-risk teacher preparation programs and actions States must take with respect to those programs.

(e) The consequences for a low-performing teacher preparation program that loses the State's approval or the State's financial support.

(f) The conditions under which a low-performing teacher preparation program that has lost the State's approval or the State's financial support may regain eligibility to resume accepting and enrolling students who receive title IV, HEA funds.

§ 612.2 Definitions.

(a) The following terms used in this part are defined in the regulations for Institutional Eligibility under the HEA, 34 CFR part 600:

Distance education

Secretary

State

Title IV, HEA program

(b) The following term used in this part is defined in subpart A of the Student Assistance General Provisions, 34 CFR part 668:

Payment period

(c) The following term used in this part is defined in 34 CFR 77.1: Local educational agency (LEA)

(d) Other terms used in this part are defined as follows:

At-risk teacher preparation program: A teacher preparation program that is identified as at-risk of being low-performing by a State based on the State's assessment of teacher preparation program performance under § 612.4.

Candidate accepted into the teacher preparation program: An individual who has been admitted into a teacher preparation program but who has not yet enrolled in any coursework that the institution has determined to be part of that teacher preparation program.

Candidate enrolled in the teacher preparation program: An individual who has been accepted into a teacher preparation program and is in the process of completing coursework but has not yet completed the teacher preparation program.

Content and pedagogical knowledge: An understanding of the central concepts and structures of the discipline in which a teacher candidate has been trained, and how to create effective learning experiences that make the discipline accessible and meaningful for all students, including a distinct set of instructional skills to address the needs of English learners and students with disabilities, in order to assure mastery of the content by the students, as described in applicable professional, State, or institutional standards.

Effective teacher preparation program: A teacher preparation program with a level of performance higher than a low-performing teacher preparation program or an at-risk teacher preparation program.

Employer survey: A survey of employers or supervisors designed to capture their perceptions of whether the novice teachers they employ or supervise who are in their first year of teaching were effectively prepared.

High-need school: A school that, based on the most recent data available, meets one or both of the following:

(i) The school is in the highest quartile of schools in a ranking of all schools served by a local educational agency (LEA), ranked in descending

order by percentage of students from low-income families enrolled in such schools, as determined by the LEA based on one of the following measures of poverty:

(A) The percentage of students aged 5 through 17 in poverty counted in the most recent Census data approved by the Secretary.

(B) The percentage of students eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 *et seq.*].

(C) The percentage of students in families receiving assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*).

(D) The percentage of students eligible to receive medical assistance under the Medicaid program.

(E) A composite of two or more of the measures described in paragraphs (i)(A) through (D) of this definition.

(ii) In the case of—

(A) An elementary school, the school serves students not less than 60 percent of whom are eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act; or

(B) Any school other than an elementary school, the school serves students not less than 45 percent of whom are eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act.

Low-performing teacher preparation program: A teacher preparation program that is identified as low-performing by a State based on the State's assessment of teacher preparation program performance under § 612.4.

Novice teacher: A teacher of record in the first three years of teaching who teaches elementary or secondary public school students, which may include, at a State's discretion, preschool students.

Quality clinical preparation: Training that integrates content, pedagogy, and professional coursework around a core of pre-service clinical experiences. Such training must, at a minimum—

(i) Be provided by qualified clinical instructors, including school and LEA-based personnel, who meet established qualification requirements and who use a training standard that is made publicly available;

(ii) Include multiple clinical or field experiences, or both, that serve diverse, rural, or underrepresented student populations in elementary through secondary school, including English learners and students with disabilities, and that are assessed using a performance-based protocol to

demonstrate teacher candidate mastery of content and pedagogy; and

(iii) Require that teacher candidates use research-based practices, including observation and analysis of instruction, collaboration with peers, and effective use of technology for instructional purposes.

Recent graduate: An individual whom a teacher preparation program has documented as having met all the requirements of the program in any of the three title II reporting years preceding the current reporting year, as defined in the report cards prepared under §§ 612.3 and 612.4.

Documentation may take the form of a degree, institutional certificate, program credential, transcript, or other written proof of having met the program's requirements. For the purposes of this definition, a program may not use either of the following criteria to determine if an individual has met all the requirements of the program:

- (i) Becoming a teacher of record; or
- (ii) Obtaining initial certification or licensure.

Rigorous teacher candidate exit qualifications: Qualifications of a teacher candidate established by a teacher preparation program prior to the candidate's completion of the program using an assessment of candidate performance that relies, at a minimum, on validated professional teaching standards and measures of the candidate's effectiveness in curriculum planning, instruction of students, appropriate plans and modifications for all students, and assessment of student learning.

Student growth: The change in student achievement between two or more points in time, using a student's scores on the State's assessments under section 1111(b)(2) of the ESEA or other measures of student learning and performance, such as student results on pre-tests and end-of-course tests; objective performance-based assessments; student learning objectives; student performance on English language proficiency assessments; and other measures that are rigorous, comparable across schools, and consistent with State guidelines.

Teacher evaluation measure: A teacher's performance level based on an LEA's teacher evaluation system that differentiates teachers on a regular basis using at least three performance levels and multiple valid measures in assessing teacher performance. For purposes of this definition, multiple valid measures must include data on student growth for all students (including English learners and students with disabilities) and other measures of

professional practice (such as observations based on rigorous teacher performance standards, teacher portfolios, and student and parent surveys).

Teacher of record: A teacher (including a teacher in a co-teaching assignment) who has been assigned the lead responsibility for student learning in a subject or area.

Teacher placement rate: (i) The percentage of recent graduates who have become novice teachers (regardless of retention) for the grade level, grade span, and subject area in which they were prepared.

(ii) At the State's discretion, the rate calculated under paragraph (i) of this definition may exclude one or more of the following, provided that the State uses a consistent approach to assess and report on all of the teacher preparation programs in the State:

(A) Recent graduates who have taken teaching positions in another State.

(B) Recent graduates who have taken teaching positions in private schools.

(C) Recent graduates who have enrolled in graduate school or entered military service.

(iii) For a teacher preparation program provided through distance education, a State calculates the rate under paragraph (i) of this definition using the total number of recent graduates who have obtained certification or licensure in the State during the three preceding title II reporting years as the denominator.

Teacher preparation entity: An institution of higher education or other organization that is authorized by the State to prepare teachers.

Teacher preparation program: A program, whether traditional or alternative route, offered by a teacher preparation entity that leads to initial State teacher certification or licensure in a specific field. Where some participants in the program are in a traditional route to certification or licensure in a specific field, and others are in an alternative route to certification or licensure in that same field, the traditional and alternative route components are considered to be separate teacher preparation programs. The term teacher preparation program includes a teacher preparation program provided through distance education.

Teacher preparation program provided through distance education: A teacher preparation program at which at least 50 percent of the program's required coursework is offered through distance education.

Teacher retention rate: The percentage of individuals in a given cohort of novice teachers who have been

continuously employed as teachers of record in each year between their first year as a novice teacher and the current reporting year.

(i) For the purposes of this definition, a cohort of novice teachers includes all teachers who were first identified as a novice teacher by the State in the same title II reporting year.

(ii) At the State's discretion, the teacher retention rates may exclude one or more of the following, provided that the State uses a consistent approach to assess and report on all teacher preparation programs in the State:

(A) Novice teachers who have taken teaching positions in other States.

(B) Novice teachers who have taken teaching positions in private schools.

(C) Novice teachers who are not retained specifically and directly due to budget cuts.

(D) Novice teachers who have enrolled in graduate school or entered military service.

Teacher survey: A survey administered to all novice teachers who are in their first year of teaching that is designed to capture their perceptions of whether the preparation that they received from their teacher preparation program was effective.

Title II reporting year: A period of twelve consecutive months, starting September 1 and ending August 31.

Subpart B—Reporting Requirements

§ 612.3 What are the regulatory reporting requirements for the institutional report card?

Beginning not later than April 30, 2018, and annually thereafter, each institution of higher education that conducts a teacher preparation program and that enrolls students receiving title IV HEA program funds—

(a) Must report to the State on the quality of teacher preparation and other information consistent with section 205(a) of the HEA, using an institutional report card that is prescribed by the Secretary;

(b) Must prominently and promptly post the institutional report card information on the institution's Web site and, if applicable, on the teacher preparation program portion of the institution's Web site; and

(c) May also provide the institutional report card information to the general public in promotional or other materials it makes available to prospective students or other individuals.

§ 612.4 What are the regulatory reporting requirements for the State report card?

(a) *General.* Beginning not later than October 31, 2018, and annually

thereafter, each State that receives funds under the HEA must—

(1) Report to the Secretary, using a State report card that is prescribed by the Secretary, on—

(i) The quality of all teacher preparation programs in the State consistent with paragraph (b)(3) of this section, whether or not they enroll students receiving Federal assistance under the HEA; and

(ii) All other information consistent with section 205(b) of the HEA; and

(2) Make the State report card information widely available to the general public by posting the State report card information on the State's Web site.

(b) *Reporting of information on teacher preparation program performance.* In the State report card, beginning not later than October 31, 2019, and annually thereafter, the State—

(1) Must make meaningful differentiations in teacher preparation program performance using at least three performance levels—low-performing teacher preparation program, at-risk teacher preparation program, and effective teacher preparation program—based on the indicators in § 612.5.

(2) Must provide—

(i) For each teacher preparation program, data for each of the indicators identified in § 612.5 for the most recent title II reporting year;

(ii) The State's weighting of the different indicators in § 612.5 for purposes of describing the State's assessment of program performance; and

(iii) Any State-level rewards or consequences associated with the designated performance levels;

(3) In implementing paragraph (b)(1) through (2) of this section, except as provided in paragraphs (b)(3)(ii)(D) and (b)(5) of this section, must ensure the performance of all of the State's teacher preparation programs are represented in the State report card by—

(i)(A) Annually reporting on the performance of each teacher preparation program that, in a given reporting year, produces a total of 25 or more recent graduates who have received initial certification or licensure from the State that allows them to serve in the State as teachers of record for K–12 students and, at a State's discretion, preschool students (*i.e.*, the program size threshold); or

(B) If a State chooses a program size threshold of less than 25 (*e.g.*, 15 or 20), annually reporting on the performance of each teacher preparation program that, in a given reporting year, produces

an amount of recent graduates, as described in this paragraph (b)(3)(i), that meets or exceeds this threshold; and

(ii) For any teacher preparation program that does not meet the program size threshold in paragraph (b)(3)(i)(A) or (B) of this section, annually reporting on the program's performance by aggregating data under paragraph (b)(3)(ii)(A), (B), or (C) of this section in order to meet the program size threshold except as provided in paragraph (b)(3)(ii)(D) of this section.

(A) The State may report on the program's performance by aggregating data that determine the program's performance with data for other teacher preparation programs that are operated by the same teacher preparation entity and are similar to or broader than the program in content.

(B) The State may report on the program's performance by aggregating data that determine the program's performance over multiple years for up to four years until the program size threshold is met.

(C) If the State cannot meet the program size threshold by aggregating data under paragraph (b)(3)(ii)(A) or (B) of this section, it may aggregate data using a combination of the methods under both of these paragraphs.

(D) The State is not required under this paragraph (b)(3)(ii) of this section to report data on a particular teacher preparation program for a given reporting year if aggregation under paragraph (b)(3)(ii) of this section would not yield the program size threshold for that program; and

(4) Must report on the procedures established by the State in consultation with a group of stakeholders, as described in paragraph (c)(1) of this section, and on the State's examination of its data collection and reporting, as described in paragraph (c)(2) of this section, in the State report card submitted—

(i) No later than October 31, 2019, and every four years thereafter; and

(ii) At any other time that the State makes a substantive change to the weighting of the indicators or the procedures for assessing and reporting the performance of each teacher preparation program in the State described in paragraph (c) of this section.

(5) The State is not required under this paragraph (b) to report data on a particular teacher preparation program if reporting these data would be inconsistent with Federal or State privacy and confidentiality laws and regulations.

(c) *Fair and equitable methods—(1) Consultation.* Each State must establish,

in consultation with a representative group of stakeholders, the procedures for assessing and reporting the performance of each teacher preparation program in the State under this section.

(i) The representative group of stakeholders must include, at a minimum, representatives of—

(A) Leaders and faculty of traditional teacher preparation programs and alternative routes to State certification or licensure programs;

(B) Students of teacher preparation programs;

(C) LEA superintendents;

(D) Small teacher preparation programs (*i.e.*, programs that produce fewer than a program size threshold of 25 recent graduates in a given year or any lower threshold set by a State, as described in paragraph (b)(3)(i) of this section);

(E) Local school boards;

(F) Elementary through secondary school leaders and instructional staff;

(G) Elementary through secondary school students and their parents;

(H) IHEs that serve high proportions of low-income students, students of color, or English learners;

(I) English learners, students with disabilities, and other underserved students;

(J) Officials of the State's standards board or other appropriate standards body; and

(K) At least one teacher preparation program provided through distance education.

(ii) The procedures for assessing and reporting the performance of each teacher preparation program in the State under this section must, at minimum, include—

(A) The weighting of the indicators identified in § 612.5 for establishing performance levels of teacher preparation programs as required by this section;

(B) The method for aggregation of data pursuant to paragraph (b)(3)(ii) of this section;

(C) Any State-level rewards or consequences associated with the designated performance levels; and

(D) Appropriate opportunities for programs to challenge the accuracy of their performance data and classification of the program.

(2) *State examination of data collection and reporting.* Each State must periodically examine the quality of the data collection and reporting activities it conducts pursuant to paragraph (b) of this section and § 612.5, and, as appropriate, modify its procedures for assessing and reporting the performance of each teacher preparation program in the State using

the procedures in paragraph (c)(1) of this section.

(d) *Inapplicability to certain insular areas.* Paragraphs (b) and (c) of this section do not apply to American Samoa, the Commonwealth of the Northern Mariana Islands, the freely associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, Guam, and the United States Virgin Islands.

§ 612.5 What indicators must a State use to report on teacher preparation program performance for purposes of the State report card?

(a) For purposes of reporting under § 612.4, a State must assess, for each teacher preparation program within its jurisdiction, indicators of academic content knowledge and teaching skills of novice teachers from that program, including, at a minimum, the following indicators:

(1) Student learning outcomes.

(i) For each year and each teacher preparation program in the State, a State must calculate the aggregate student learning outcomes of all students taught by novice teachers.

(ii) For purposes of calculating student learning outcomes under paragraph (a)(1)(i) of this section, a State must use:

(A) Student growth;

(B) A teacher evaluation measure;

(C) Another State-determined measure that is relevant to calculating student learning outcomes, including academic performance, and that meaningfully differentiates among teachers; or

(D) Any combination of paragraphs (a)(1)(ii)(A), (B), or (C) of this section.

(iii) At the State's discretion, in calculating a teacher preparation program's aggregate student learning outcomes a State may exclude one or both of the following, provided that the State uses a consistent approach to assess and report on all of the teacher preparation programs in the State—

(A) Student learning outcomes of students taught by novice teachers who have taken teaching positions in another State.

(B) Student learning outcomes of all students taught by novice teachers who have taken teaching positions in private schools.

(2) Employment outcomes.

(i) Except as provided in paragraph (a)(2)(v) of this section, for each year and each teacher preparation program in the State, a State must calculate:

(A) Teacher placement rate;

(B) Teacher placement rate in high-need schools;

(C) Teacher retention rate; and

(D) Teacher retention rate in high-need schools.

(ii) For purposes of reporting the teacher retention rate and teacher retention rate in high-need schools under paragraph (a)(2)(i)(C) and (D) of this section—

(A) Except as provided in paragraph (B), the State reports a teacher retention rate for each of the three cohorts of novice teachers immediately preceding the current title II reporting year.

(B)(1) The State is not required to report a teacher retention rate for any teacher preparation program in the State report to be submitted in October 2018.

(2) For the State report to be submitted in October 2019, the teacher retention rate must be calculated for the cohort of novice teachers identified in the 2017–2018 title II reporting year.

(3) For the State report to be submitted in October 2020, separate teacher retention rates must be calculated for the cohorts of novice teachers identified in the 2017–2018 and 2018–2019 title II reporting years.

(iii) For the purposes of calculating employment outcomes under paragraph (a)(2)(i) of this section, a State may, at its discretion, assess traditional and alternative route teacher preparation programs differently, provided that differences in assessments and the reasons for those differences are transparent and that assessments result in equivalent levels of accountability and reporting irrespective of the type of program.

(iv) For the purposes of the teacher placement rate under paragraph (a)(2)(i)(A) and (B) of this section, a State may, at its discretion, assess teacher preparation programs provided through distance education differently from teacher preparation programs not provided through distance education, based on whether the differences in the way the rate is calculated for teacher preparation programs provided through distance education affect employment outcomes. Differences in assessments and the reasons for those differences must be transparent and result in equivalent levels of accountability and reporting irrespective of where the program is physically located.

(v) A State is not required to calculate a teacher placement rate under paragraph (a)(2)(i)(A) of this section for alternative route to certification programs.

(3) *Survey outcomes.* (i) For each year and each teacher preparation program on which a State must report a State must collect through survey instruments qualitative and quantitative data including, but not limited to, a teacher survey and an employer survey

designed to capture perceptions of whether novice teachers who are employed in their first year of teaching possess the academic content knowledge and teaching skills needed to succeed in the classroom.

(ii) At the State's discretion, in calculating a teacher preparation program's survey outcomes the State may exclude survey outcomes for all novice teachers who have taken teaching positions in private schools provided that the State uses a consistent approach to assess and report on all of the teacher preparation programs in the State.

(4) *Characteristics of teacher preparation programs.* Whether the program—

(i) Is administered by an entity accredited by an agency recognized by the Secretary for accreditation of professional teacher education programs; or

(ii) Produces teacher candidates—

(A) With content and pedagogical knowledge;

(B) With quality clinical preparation; and

(C) Who have met rigorous teacher candidate exit qualifications.

(b) At a State's discretion, the indicators of academic content knowledge and teaching skills may include other indicators of a teacher's effect on student performance, such as student survey results, provided that the State uses the same indicators for all teacher preparation programs in the State.

(c) A State may, at its discretion, exclude from its reporting under paragraph (a)(1)–(3) of this section individuals who have not become novice teachers after three years of becoming recent graduates.

(d) This section does not apply to American Samoa, the Commonwealth of the Northern Mariana Islands, the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, Guam, and the United States Virgin Islands.

§ 612.6 What must a State consider in identifying low-performing teacher preparation programs or at-risk teacher preparation programs, and what actions must a State take with respect to those programs identified as low-performing?

(a)(1) In identifying low-performing or at-risk teacher preparation programs the State must use criteria that, at a minimum, include the indicators of academic content knowledge and teaching skills from § 612.5.

(2) Paragraph (a)(1) of this section does not apply to American Samoa, the

Commonwealth of the Northern Mariana Islands, the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, Guam, and the United States Virgin Islands.

(b) At a minimum, a State must provide technical assistance to low-performing teacher preparation programs in the State to help them improve their performance in accordance with section 207(a) of the HEA. Technical assistance may include, but is not limited to: Providing programs with information on the specific indicators used to determine the program's rating (e.g., specific areas of weakness in student learning, job placement and retention, and novice teacher and employer satisfaction); assisting programs to address the rigor of their exit criteria; helping programs identify specific areas of curriculum or clinical experiences that correlate with gaps in graduates' preparation; helping identify potential research and other resources to assist program improvement (e.g., evidence of other successful interventions, other university faculty, other teacher preparation programs, nonprofits with expertise in educator preparation and teacher effectiveness improvement, accrediting organizations, or higher education associations); and sharing best practices from exemplary programs.

Subpart C—Consequences of Withdrawal of State Approval or Financial Support

§ 612.7 What are the consequences for a low-performing teacher preparation program that loses the State's approval or the State's financial support?

(a) Any teacher preparation program for which the State has withdrawn the State's approval or the State has terminated the State's financial support due to the State's identification of the program as a low-performing teacher preparation program—

(1) Is ineligible for any funding for professional development activities awarded by the Department as of the date that the State withdrew its approval or terminated its financial support;

(2) May not include any candidate accepted into the teacher preparation program or any candidate enrolled in the teacher preparation program who receives aid under title IV, HEA programs in the institution's teacher preparation program as of the date that the State withdrew its approval or terminated its financial support; and

(3) Must provide transitional support, including remedial services, if

necessary, to students enrolled at the institution at the time of termination of financial support or withdrawal of approval for a period of time that is not less than the period of time a student continues in the program but no more than 150 percent of the published program length.

(b) Any institution administering a teacher preparation program that has lost State approval or financial support based on being identified as a low-performing teacher preparation program must—

(1) Notify the Secretary of its loss of the State's approval or the State's financial support due to identification as low-performing by the State within 30 days of such designation;

(2) Immediately notify each student who is enrolled in or accepted into the low-performing teacher preparation program and who receives title IV, HEA program funds that, commencing with the next payment period, the institution is no longer eligible to provide such funding to students enrolled in or accepted into the low-performing teacher preparation program; and

(3) Disclose on its Web site and in promotional materials that it makes available to prospective students that the teacher preparation program has been identified as a low-performing teacher preparation program by any State and has lost the State's approval or the State's financial support, including the identity of the State or States, and that students accepted or enrolled in the low-performing teacher preparation program may not receive title IV, HEA program funds.

§ 612.8 How does a low-performing teacher preparation program regain eligibility to accept or enroll students receiving Title IV, HEA program funds after loss of the State's approval or the State's financial support?

(a) A low-performing teacher preparation program that has lost the State's approval or the State's financial support may regain its ability to accept and enroll students who receive title IV, HEA program funds upon demonstration to the Secretary under paragraph (b) of this section of—

(1) Improved performance on the teacher preparation program performance criteria in § 612.5 as determined by the State; and

(2) Reinstatement of the State's approval or the State's financial support, or, if both were lost, the State's approval and the State's financial support.

(b) To regain eligibility to accept or enroll students receiving title IV, HEA funds in a teacher preparation program

that was previously identified by the State as low-performing and that lost the State's approval or the State's financial support, the institution that offers the teacher preparation program must submit an application to the Secretary along with supporting documentation that will enable the Secretary to determine that the teacher preparation program has met the requirements under paragraph (a) of this section.

PART 686—TEACHER EDUCATION ASSISTANCE FOR COLLEGE AND HIGHER EDUCATION (TEACH) GRANT PROGRAM

■ 2. The authority citation for part 686 continues to read as follows:

Authority: 20 U.S.C. 1070g, *et seq.*, unless otherwise noted.

§ 686.1 [Amended]

■ 3. Section 686.1 is amended by removing the words “school serving low-income students” and adding, in their place, the words “school or educational service agency serving low-income students (low-income school)”.

■ 4. Section 686.2 is amended by:

■ A. Redesignating paragraph (d) as paragraph (e).

■ B. Adding a new paragraph (d).

■ C. In newly redesignated paragraph (e):

■ i. Redesignating paragraphs (1) and (2) in the definition of “Academic year or its equivalent for elementary and secondary schools (elementary or secondary academic year)” as paragraphs (i) and (ii);

■ ii. Adding in alphabetical order the definition of “Educational service agency”;

■ iii. Redesignating paragraphs (1) through (7) in the definition of “High-need field” as paragraphs (i) through (vii), respectively;

■ iv. Adding in alphabetical order definitions of “High-quality teacher preparation program not provided through distance education” and “High-quality teacher preparation program provided through distance education”;

■ v. Redesignating paragraphs (1) through (3) in the definition of “Institutional Student Information Record (ISIR)” as paragraphs (i) through (iii), respectively;

■ vi. Redesignating paragraphs (1) and (2) as paragraphs (i) and (ii) and paragraphs (2)(i) and (ii) as paragraphs (ii)(A) and (B), respectively, in the definition of “Numeric equivalent”;

■ vii. Redesignating paragraphs (1) through (3) in the definition of “Post-baccalaureate program” as paragraphs (i) through (iii), respectively;

- viii. Adding in alphabetical order a definition for “School or educational service agency serving low-income students (low-income school)”;
- ix. Removing the definition of “School serving low-income students (low-income school)”;
- x. Revising the definitions of “TEACH Grant-eligible institution” and “TEACH Grant-eligible program”; and
- xi. Revising the definition of “Teacher preparation program.”

The additions and revisions read as follows:

§ 686.2 Definitions.

* * * * *

(d) A definition for the following term used in this part is in Title II Reporting System, 34 CFR part 612:

Effective teacher preparation program.

(e) * * *

Educational service agency: A regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to LEAs, as defined in section 8101 of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

* * * * *

High-quality teacher preparation program not provided through distance education: A teacher preparation program at which less than 50 percent of the program’s required coursework is offered through distance education; and

(i) Beginning with the 2021–2022 award year, is not classified by the State to be less than an effective teacher preparation program based on 34 CFR 612.4(b) in two of the previous three years; or

(ii) Meets the exception from State reporting of teacher preparation program performance under 34 CFR 612.4(b)(3)(ii)(D) or 34 CFR 612.4(b)(5).

High-quality teacher preparation program provided through distance education: A teacher preparation program at which at least 50 percent of the program’s required coursework is offered through distance education; and

(i) Beginning with the 2021–2022 award year, is not classified by the same State to be less than an effective teacher preparation program based on 34 CFR 612.4(b); in two of the previous three years; or

(ii) Meets the exception from State reporting of teacher preparation program performance under 34 CFR 612.4(b)(3)(ii)(D) or (E).

* * * * *

School or educational service agency serving low-income students (low-income school): An elementary or secondary school or educational service agency that—

(i) Is located within the area served by the LEA that is eligible for assistance pursuant to title I of the ESEA;

(ii) Has been determined by the Secretary to be a school or educational service agency in which more than 30 percent of the school’s or educational service agency’s total enrollment is made up of children who qualify for services provided under title I of the ESEA; and

(iii) Is listed in the Department’s Annual Directory of Designated Low-Income Schools for Teacher Cancellation Benefits. The Secretary considers all elementary and secondary schools and educational service agencies operated by the Bureau of Indian Education (BIE) in the Department of the Interior or operated on Indian reservations by Indian tribal groups under contract or grant with the BIE to qualify as schools or educational service agencies serving low-income students.

* * * * *

TEACH Grant-eligible institution: An eligible institution as defined in 34 CFR part 600 that meets financial responsibility standards established in 34 CFR part 668, subpart L, or that qualifies under an alternative standard in 34 CFR 668.175 and—

(i) Provides at least one high-quality teacher preparation program not provided through distance education or one high-quality teacher preparation program provided through distance education at the baccalaureate or master’s degree level that also provides supervision and support services to teachers, or assists in the provision of services to teachers, such as—

(A) Identifying and making available information on effective teaching skills or strategies;

(B) Identifying and making available information on effective practices in the supervision and coaching of novice teachers; and

(C) Mentoring focused on developing effective teaching skills and strategies;

(ii) Provides a two-year program that is acceptable for full credit in a TEACH Grant-eligible program offered by an institution described in paragraph (i) of this definition, as demonstrated by the institution that provides the two-year program, or provides a program that is the equivalent of an associate degree, as defined in § 668.8(b)(1), that is acceptable for full credit toward a baccalaureate degree in a TEACH Grant-eligible program;

(iii) Provides a high-quality teacher preparation program not provided through distance education or a high-quality teacher preparation program

provided through distance education that is a post-baccalaureate program of study; or

(iv) Provides a master’s degree program that does not meet the definition of terms “high-quality teacher preparation program not provided through distance education” or “high-quality teacher preparation program that is provided through distance education” because it is not subject to reporting under 34 CFR part 612, but that prepares:

(A) A teacher or a retiree from another occupation with expertise in a field in which there is a shortage of teachers, such as mathematics, science, special education, English language acquisition, or another high-need field; or

(B) A teacher who is using high-quality alternative certification routes to become certified.

TEACH Grant-eligible program: (i) An eligible program, as defined in 34 CFR 668.8, that meets the definition of a “high-quality teacher preparation program not provided through distance education” or “high-quality teacher preparation program provided through distance education” and that is designed to prepare an individual to teach as a highly-qualified teacher in a high-need field and leads to a baccalaureate or master’s degree, or is a post-baccalaureate program of study;

(ii) A program that is a two-year program or is the equivalent of an associate degree, as defined in 34 CFR 668.8(b)(1), that is acceptable for full credit toward a baccalaureate degree in a TEACH Grant-eligible program; or

(iii) A master’s degree program that does not meet the definition of the terms “high-quality teacher preparation not provided through distance education” or “high-quality teacher preparation program that is provided through distance education” because it is not subject to reporting under 34 CFR part 612, but that prepares:

(A) A teacher or a retiree from another occupation with expertise in a field in which there is a shortage of teachers, such as mathematics, science, special education, English language acquisition, or another high-need field; or

(B) A teacher who is using high-quality alternative certification routes to become certified.

* * * * *

Teacher preparation program: A course of study, provided by an institution of higher education, the completion of which signifies that an enrollee has met all of the State’s educational or training requirements for initial certification or licensure to teach in the State’s elementary or secondary

schools. A teacher preparation program may be a traditional program or an alternative route to certification or licensure, as defined by the State.

* * * * *

■ 5. Section 686.3 is amended by adding paragraph (c) to read as follows:

§ 686.11 Duration of student eligibility.

* * * * *

(c) An otherwise eligible student who received a TEACH Grant for enrollment in a TEACH Grant-eligible program is eligible to receive additional TEACH Grants to complete that program, even if that program is no longer considered a TEACH Grant-eligible program, not to exceed four Scheduled Awards for an undergraduate or post-baccalaureate student and up to two Scheduled Awards for a graduate student.

■ 6. Section 686.11 is amended by:

■ A. Revising paragraph (a)(1)(iii).

■ B. Adding paragraph (d).

The revision and addition read as follows:

§ 686.11 Eligibility to receive a grant.

(a) * * *

(1) * * *

(iii) Is enrolled in a TEACH Grant-eligible institution in a TEACH Grant-eligible program or is an otherwise eligible student who received a TEACH Grant and who is completing a program under § 686.3(c);

* * * * *

(d) *Students who received a total and permanent disability discharge of a TEACH Grant agreement to serve or a title IV, HEA loan.* If a student's previous TEACH Grant agreement to serve or title IV, HEA loan was discharged based on total and permanent disability, the student is eligible to receive a TEACH Grant if the student—

(1) Obtains a certification from a physician that the student is able to engage in substantial gainful activity as defined in 34 CFR 685.102(b);

(2) Signs a statement acknowledging that neither the new agreement to serve for the TEACH Grant the student receives nor any previously discharged agreement to serve which the grant recipient is required to fulfill in accordance with paragraph (d)(3) of this section can be discharged in the future on the basis of any impairment present when the new grant is awarded, unless that impairment substantially deteriorates and the grant recipient applies for and meets the eligibility requirements for a discharge in accordance with 34 CFR 685.213; and

(3) In the case of a student who receives a new TEACH Grant within

three years of the date that any previous TEACH Grant service obligation or title IV loan was discharged due to a total and permanent disability in accordance with § 686.42(b), 34 CFR 685.213(b)(4)(iii), 34 CFR 674.61(b)(3)(v), or 34 CFR 682.402(c)(3)(iv), acknowledges that he or she is once again subject to the terms of the previously discharged TEACH Grant agreement to serve or resumes repayment on the previously discharged loan in accordance with 34 CFR 685.213(b)(7), 674.61(b)(6), or 682.402(c)(6) before receiving the new grant.

■ 7. Section 686.12 is amended by:

■ A. In paragraph (b)(2), adding the words “low-income” before the word “school”; and

■ B. Revising paragraph (d).

The revision reads as follows:

§ 686.12 Agreement to serve.

* * * * *

(d) *Majoring and serving in a high-need field.* In order for a grant recipient's teaching service in a high-need field listed in the Nationwide List to count toward satisfying the recipient's service obligation, the high-need field in which he or she prepared to teach must be listed in the Nationwide List for the State in which the grant recipient teaches—

(1) At the time the grant recipient begins teaching in that field, even if that field subsequently loses its high-need designation for that State; or

(2) For teaching service performed on or after July 1, 2010, at the time the grant recipient begins teaching in that field or when the grant recipient signed the agreement to serve or received the TEACH Grant, even if that field subsequently loses its high-need designation for that State before the grant recipient begins teaching.

* * * * *

§ 686.32 [Amended]

■ 8. Section 686.32 is amended by:

■ A. In paragraph (a)(3)(iii)(B), adding the words “or when the grant recipient signed the agreement to serve or received the TEACH Grant” after the words “that field”; and

■ B. In paragraph (c)(4)(iv)(B), adding the words “or when the grant recipient signed the agreement to serve or received the TEACH Grant” after the words “that field”.

§ 686.37 [Amended]

■ 9. Section 686.37(a)(1) is amended by removing the citation “§§ 686.11” and adding in its place the citation “§§ 686.3(c), 686.11.”

■ 10. Section 686.40 is amended by revising paragraphs (b) and (f) to read as follows:

§ 686.40 Documenting the service obligation.

* * * * *

(b) If a grant recipient is performing full-time teaching service in accordance with the agreement to serve, or agreements to serve if more than one agreement exists, the grant recipient must, upon completion of each of the four required elementary or secondary academic years of teaching service, provide to the Secretary documentation of that teaching service on a form approved by the Secretary and certified by the chief administrative officer of the school or educational service agency in which the grant recipient is teaching. The documentation must show that the grant recipient is teaching in a low-income school. If the school or educational service agency at which the grant recipient is employed meets the requirements of a low-income school in the first year of the grant recipient's four elementary or secondary academic years of teaching and the school or educational service agency fails to meet those requirements in subsequent years, those subsequent years of teaching qualify for purposes of this section for that recipient.

* * * * *

(f) A grant recipient who taught in more than one qualifying school or more than one qualifying educational service agency during an elementary or secondary academic year and demonstrates that the combined teaching service was the equivalent of full-time, as supported by the certification of one or more of the chief administrative officers of the schools or educational service agencies involved, is considered to have completed one elementary or secondary academic year of qualifying teaching.

■ 11. Section 686.42 is amended by revising paragraph (b) to read as follows:

§ 686.42 Discharge of agreement to serve.

* * * * *

(b) *Total and permanent disability.* (1) A grant recipient's agreement to serve is discharged if the recipient becomes totally and permanently disabled, as defined in 34 CFR 685.102(b), and the grant recipient applies for and satisfies the eligibility requirements for a total and permanent disability discharge in accordance with 34 CFR 685.213.

(2) If at any time the Secretary determines that the grant recipient does not meet the requirements of the three-year period following the discharge as described in 34 CFR 685.213(b)(7), the

Secretary will notify the grant recipient that the grant recipient’s obligation to satisfy the terms of the agreement to serve is reinstated.

(3) The Secretary’s notification under paragraph (b)(2) of this section will—

(i) Include the reason or reasons for reinstatement;

(ii) Provide information on how the grant recipient may contact the Secretary if the grant recipient has questions about the reinstatement or believes that the agreement to serve was reinstated based on incorrect information; and

(iii) Inform the TEACH Grant recipient that he or she must satisfy the

service obligation within the portion of the eight-year period that remained after the date of the discharge.

(4) If the TEACH Grant of a recipient whose TEACH Grant agreement to serve is reinstated is later converted to a Direct Unsubsidized Loan, the recipient will not be required to pay interest that accrued on the TEACH Grant disbursements from the date the agreement to serve was discharged until the date the agreement to serve was reinstated.

* * * * *

■ 12. Section 686.43 is amended by revising paragraph (a)(1) to read as follows:

§ 686.43 Obligation to repay the grant.
(a) * * *

(1) The grant recipient, regardless of enrollment status, requests that the TEACH Grant be converted into a Federal Direct Unsubsidized Loan because he or she has decided not to teach in a qualified school or educational service agency, or not to teach in a high-need field, or for any other reason;

* * * * *

[FR Doc. 2016–24856 Filed 10–28–16; 8:45 am]

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