



The Department of Education Proposes Changes to IPEDS Collection and Reporting Procedures of Race and Ethnicity Data

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Several higher education human resources professionals have asked if the recent changes to the Employer Information Report (EEO-1)¹ also affect how they should collect and report data for purposes of the Integrated Postsecondary Education Data System, commonly called "IPEDS." IPEDS is the established postsecondary education data collection program for the National Center for Education Statistics. It is a system of surveys designed to collect data from postsecondary education institutions, and it collects data in areas such as enrollments, program completions, faculty, staff, and finances. One type of data collected through IPEDS is data regarding the race and ethnicity of students and staff. All institutions that participate in a federal student financial assistance program are required to complete IPEDS surveys.²

The changes to the EEO-1 do not directly apply to the collection and reporting of race and ethnicity data on IPEDS surveys. However, last fall, the Department of Education issued proposed guidance regarding the maintenance, collection, and reporting of individual-level and aggregated data on race and ethnicity,³ including IPEDS data, and the proposed guidance includes changes that are very similar to the EEO-1 changes. At this time, the guidance is not final, but it does provide a tentative view of the regulations that may be issued.

A. The Collection of IPEDS Data

Under the proposed guidance, educational institutions will be required to collect individual-level data on race and ethnicity for IPEDS using a two-question format on the educational institution's survey instrument. The first question would ask whether the respondent is Hispanic or Latino. The term, "Hispanic or Latino," is defined to mean a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The second question would ask the respondent to select one or more races from the following five racial groups: (1) American Indian or Alaska Native, (2) Asian, (3) Black or African America, (4) Native Hawaiian or other Pacific Islander, or (5) White. The guidance also permits institutions, at their discretion, to use additional subcategories to collect data. For example, Japanese, Chinese, Korean, and Pakistani would be subcategories of the "Asian" group. Students and staff would then be able to select one or more of these subcategories on the survey instrument.



The proposed guidance states that educational institutions should allow students and staff to "self-identify" race and ethnicity unless self-identification is not practicable or feasible. If a student or staff member does not provide his or her race and ethnicity, the educational institution should ensure that the student or staff member is refusing to self-identify rather than simply overlooking the question. If the educational institution has provided adequate opportunity for the respondent to self-identify and he or she still leaves the items blank or refuses to complete them, observer identification may be used.

Students and staff typically are asked to identify when they apply or start their educational programs or employment. Therefore, current students and staff may not have identified using the two-question format or the racial categories listed above. The proposed guidance encourages educational institutions to allow current students and staff to re-identify using the two-question format and racial groups listed above. The guidance does not mandate re-identification, however.

The proposed guidance does not mandate how this race and ethnicity data should be collected, other than to state that it should be collected on the institution's "survey instrument." Any data collected on race and ethnicity from employees should be kept in a separate file (not the employee's personnel file) and should not be considered by individuals making employment decisions. Similarly, any information gathered from students regarding race and ethnicity should not be considered by individuals making admissions decisions and should be maintained separately from the admissions application.

B. The Reporting of IPEDS Data

The proposed guidance states that educational institutions will be required to report aggregated data on race and ethnicity in 7 categories:

(1) Hispanics of any race,

and, for Non-Hispanics only,

(2) American Indian or Alaska Native,

(3) Asian,

(4) Black or African American,

(5) Native Hawaiian or Other Pacific Islander,

(6) White, and

(7) Two or more races

These are the same categories used in the revised EEO-1. For individuals who have not self-identified, higher education institutions can use the category of "race or ethnicity unknown" for aggregate reporting purposes.⁴ In addition, IPEDS would continue to use the category of "nonresident alien" as an alternative



to collecting race/ethnicity from nonresident aliens.⁵

C. Implementation Schedule

Educational institutions and other recipients will be required to implement the guidance, once it is issued in final form, by the Fall of 2009. The Department of Education is encouraging educational institutions that already collect individual-level data in the manner specified by the guidance to immediately begin reporting aggregate data to the Department in accordance with the proposed guidance.

Gray Plant Mooty plans to issue an update once this guidance is issued in final form. In the meantime, if you have any questions on this, or other higher education legal issues, please contact Carl Crosby Lehmann or another member of the Gray Plant Mooty Higher Education Team.

¹ Private employers with 100 or more employees and some government contractors with 50 or more employees must file the EEO-1 annually. The Equal Employment Opportunity Commission ("EEOC") recently revised the Employer Information Report (EEO-1). Many of the changes to the EEO-1 relate to the classifications used for reporting the race and ethnicity of employees. The revised report form also strongly endorses the use of employee self-identification of race and ethnicity as the method for employers to collect data for EEO-1 reports. For more information on the revised EEO-1, please see Gray Plant Mooty Employment Edge, 71st Edition, "Reminder to Employers Regarding EEO-1 Reports" (September 2006).

² For more information, see: <http://nces.ed.gov/ipeds/>.

³ See Proposed Guidance on Maintaining, Collecting and Reporting Data on Race and Ethnicity to the U.S. Department of Education, 71 Fed. Reg. 44866, Aug. 7, 2006.

⁴ Although higher education institutions are encouraged to use observer identification for individuals who do not self-identify, the Department of Education included the "race/ethnicity unknown" category because it acknowledges that a substantial number of college students have refused to identify a race and that there is often not a convenient mechanism for college administrators to use observer identification.

⁵ Information on non-resident aliens is not needed for civil rights reporting purposes.

This article is provided for general informational purposes only and should not be construed as legal advice or legal opinion on any specific facts or circumstances. You are urged to consult a lawyer concerning any specific legal questions you may have.