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Re: Sec. 515 Information Quality Guidelines

Dear Colleague:

The Section of Administrative Law and Regulatory Practice of the American Bar Association is pleased to submit comments on the proposed guidance for data quality that your agency has proposed under Section 515 of Public Law 106-554. The views expressed herein are presented on behalf of the Section of Administrative Law and Regulatory Practice. They have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the position of the Association.

These comments are focused on the mechanisms proposed for implementation of section 515's "correction of information that does not comply with (OMB guidance)". In commenting on the mechanisms we hope to improve them; these comments do not suggest that any of the substantive objectives of the agency discussed in your published proposal would or would not have our Section's support. Because many of the nation's experts in the administrative process and information policy are members of our Section, we hope to speak to the process and procedural aspects of the proposed guidelines.

- a. The Department in "Influential Information" chooses not to make any categorization of influential types of data. The benefit of doing so would be a uniformity in the norms to be met within the entire agency; leaving the decision to individual programs is counter-intuitive, since a program manager who has the sole choice to take extra steps or not, will likely not make these changes.
- b. Likewise the Department leaves to each program office to determine the action to be taken and the level of correction. This too is counter-intuitive since the dispersal of responsibility means that the same official who made the deficient disclosure is making the decision of what to say as a correction and to whom to say it.
- c. The document's Review paragraph 2, final sentence, says the Department would not "process the request" if the request was "inconsequential, without justification, or made in bad faith". We agree with the third category. But a refusal to process the incoming request should be rare. If the request is

“inconsequential” to the agency it still may be very meaningful to the student whose loan default is incorrectly included in a database. And a less sophisticated individual still has a right to seek correction with a level of “justification” that may be inadequate by agency standards. When in doubt, and absent bad faith, the agency should process the request and then may deny the remedy sought. This is the approach taken in “Information Correction Requests” bullet 3 and the final guidance document should take the same approach in both places.

Thank you for considering these comments. If you wish clarification of any portions, please contact Professor James O’Reilly, Chair of the Committee on Government Information & Privacy, at (513) 556-0062.

Sincerely,



C. Boyden Gray
Section Chair