

§ 685.308

34 CFR Ch. VI (7-1-01 Edition)

§ 685.308 Remedial actions.

(a) *General.* The Secretary may require the repayment of funds and the purchase of loans by the school if the Secretary determines that the unenforceability of a loan or loans, or the disbursement of loan amounts for which the borrower was ineligible, resulted in whole or in part from—

(1) The school's violation of a Federal statute or regulation; or

(2) The school's negligent or willful false certification.

(b) In requiring a school to repay funds to the Secretary or to purchase loans from the Secretary in connection with an audit or program review, the Secretary follows the procedures described in 34 CFR part 668, subpart H.

(c) The Secretary may impose a fine or take an emergency action against a school or limit, suspend, or terminate a school's participation in the Direct Loan Program in accordance with 34 CFR part 668, subpart G.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.309 Administrative and fiscal control and fund accounting requirements for schools participating in the Direct Loan Program.

(a) *General.* A participating school shall—

(1) Establish and maintain proper administrative and fiscal procedures and all necessary records as set forth in this part and in 34 CFR part 668; and

(2) Submit all reports required by this part and 34 CFR part 668 to the Secretary.

(b) *Student status confirmation reports.* A school shall—

(1) Upon receipt of a student status confirmation report from the Secretary, complete and return that report to the Secretary within 30 days of receipt; and

(2) Unless it expects to submit its next student status confirmation report to the Secretary within the next 60 days, notify the Secretary within 30 days if it discovers that a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan has been made to or on behalf of a student who—

(i) Enrolled at that school but has ceased to be enrolled on at least a half-time basis;

(ii) Has been accepted for enrollment at that school but failed to enroll on at least a half-time basis for the period for which the loan was intended; or

(iii) Has changed his or her permanent address.

(3) The Secretary provides student status confirmation reports to a school at least semi-annually.

(4) The Secretary may provide the student status confirmation report in either paper or electronic format.

(c) *Record retention requirements.* An institution shall follow the record retention and examination requirements in this part and in 34 CFR 668.24.

(d) *Accounting requirements.* A school shall follow accounting requirements in 34 CFR 668.24(b).

(e) *Direct Loan Program bank account.* Schools shall follow the procedures for maintaining funds established in 34 CFR 668.163.

(f) *Division of functions.* Schools shall follow the procedures for division of functions in 34 CFR 668.16(c).

(g) *Limit on use of funds.* Except for funds paid to a school under section 452(b)(1) of the Act, funds received by a school under this part may be used only to make Direct Loans to eligible borrowers and may not be used or hypothecated for any other purpose.

(Approved by the Office of Management and Budget under control number 1840-0672)

(Authority: 20 U.S.C. 1087a *et seq.*)

[59 FR 61690, Dec. 1, 1994, as amended at 60 FR 33345, June 28, 1995; 61 FR 60493, Nov. 27, 1996; 61 FR 60610, Nov. 29, 1996]

Subpart D—School Participation and Loan Origination in the Direct Loan Program

§ 685.400 School participation requirements.

(a)(1) In order to qualify for initial participation in the Direct Loan Program, a school must meet the eligibility requirements in section 435(a) of the Act, including the requirement that it have a cohort default rate of less than 25 percent for at least one of the three most recent fiscal years for which data are available unless the school is exempt from this requirement under section 435(a)(2)(C) of the Act.

(2) In order to continue to participate in the Direct Loan Program, a school must continue to meet the requirements of paragraph (a)(1) of this section for years for which cohort default rate data represent the years prior to the school's participation in the Direct Loan Program.

(b) In order to qualify for initial participation, the school must not be subject to an emergency action or a proposed or final limitation, suspension, or termination action under sections 428(b)(1)(T), 432(h), or 487(c) of the Act.

(c) If schools apply as a consortium, each school in the consortium must meet the requirements in paragraphs (a) and (b) of this section.

(d) The Secretary selects schools to participate in the Direct Loan Program from among those that apply to participate and meet the requirements in paragraphs (a)(1), (b), and (c) of this section.

(Authority: 20 U.S.C. 1087a *et seq.*)

[59 FR 61690, Dec. 1, 1994, as amended at 64 FR 46255, Aug. 24, 1999]

§ 685.401 [Reserved]

§ 685.402 Criteria for schools to originate loans.

(a) *Initial determination of origination status.* (1) *Standard origination.* Any school eligible to participate in the Direct Loan Program under § 685.400 is eligible to participate under standard origination.

(2) *School Origination.* To be eligible to originate loans, a school must meet the following criteria:

(i) Have participated in the Federal Perkins Loan Program, the Federal Pell Grant Program, or, for a graduate and professional school, a similar program for the three most recent years preceding the date of application to participate in the Direct Loan Program.

(ii) If participating in the Federal Pell Grant Program, not be on the reimbursement system of payment.

(iii) In the opinion of the Secretary, have had no severe performance deficiencies for any of the programs under title IV of the Act, including deficiencies demonstrated by the most recent audit or program review.

(iv) Be financially responsible in accordance with the standards of 34 CFR 668.15.

(v) Be current on program and financial reports and audits required under title IV of the Act for the 12-month period immediately preceding the date of application to participate in the Direct Loan Program.

(vi) Be current on Federal cash transaction reports required under title IV of the Act for the 12-month period immediately preceding the date of application to participate in the Direct Loan Program and have no final determination of cash on hand that exceeds immediate title IV program needs.

(vii) Have no material findings in any of the annual financial audits submitted for the three most recent years preceding the date of application to participate in the Direct Loan Program.

(viii) Provide an assurance that the school has no delinquent outstanding debts to the Federal Government, unless—

(A) Those debts are being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government; or

(B) The Secretary determines that the existence or amount of the debts has not been finally determined by the cognizant Federal agency.

(3) A school that meets the criteria to originate loans may participate under school origination option 1 or 2 or under standard origination.

(b) *Change in origination status.* (1) After the initial determination of a school's origination status, the Secretary may allow a school that does not qualify to originate loans under either origination option 1 or origination option 2 to do so if the Secretary determines that the school is fully capable of originating loans under one of those options.

(2)(i) At any time after the initial determination of a school's origination status, a school participating under origination option 2 may request to change to origination option 1 or standard origination, and a school participating under origination option 1 may request to change to standard origination.