

§ 60.42 Records, reports, inspection, and audit requirements for HEAL lenders and holders.

(a) *Records.* (1) A lender or holder must keep complete and accurate records of each HEAL loan which it holds. The records must be organized in a way that permits them to be easily retrievable and allows the ready identification of the current status of each loan. The required records include:

- (i) The loan application;
- (ii) The original promissory note;
- (iii) The repayment schedule agreement;
- (iv) Evidence of each disbursement of loan proceeds;
- (v) Notices of changes in a borrower's address and status as a full-time student;
- (vi) Evidence of the borrower's eligibility for a deferment;
- (vii) The borrower's signed statement describing his or her rights and responsibilities in connection with a HEAL loan;
- (viii) The documents required for the exercise of forbearance;
- (ix) Documentation of the assignment of the loan; and
- (x) Evidence of a borrower's creditworthiness, including the borrower's credit report.

(2) The lender or holder must maintain for each borrower a payment history showing the date and amount of each payment received on the borrower's behalf, and the amounts of each payment attributable to principal and interest. A lender or holder must also maintain for each loan a collection history showing the date and subject of each communication with a borrower or endorser for collection of a delinquent loan. Furthermore, a lender or holder must keep any additional records which are necessary to make any reports required by the Secretary.

(3) A lender or holder must retain the records required for each loan for not less than 5 years following the date the loan is repaid in full by the borrower. However, in particular cases the Secretary may require the retention of records beyond this minimum period. A lender or holder must keep the original copy of an unpaid promissory note, but may store all other records in microform or computer format.

(4) The lender or holder must maintain accurate and complete records on each HEAL borrower and related school activities required by the HEAL program. All HEAL records shall be maintained under security and protected from fire, flood, water leakage, other environmental threats, electronic data system failures or power fluctuations, unauthorized intrusion for use, and theft.

(b) *Reports.* A lender or holder must submit reports to the Secretary at the time and in the manner required by the Secretary.

(c) *Inspections.* Upon request, a lender or holder must afford the Secretary, the Comptroller General of the United States, and any of their authorized representatives access to its records in order to assure the correctness of its reports.

(d) The lender or holder must comply with the Department's biennial audit requirements of section 705 of the Act.

(e) Any lender or holder who has information which indicates potential or actual commission of fraud or other offenses against the United States, involving these loan funds, must promptly provide this information to the appropriate Regional Office of Inspector General for Investigations.

(Approved by the Office of Management and Budget under control numbers 0915-0043 and 0915-0108)

[48 FR 38988, Aug. 26, 1983, as amended at 52 FR 750, Jan. 8, 1987; 57 FR 28798, June 29, 1992]

§ 60.43 Limitation, suspension, or termination of the eligibility of a HEAL lender or holder.

(a) The Secretary may limit, suspend, or terminate the eligibility under the HEAL program of an otherwise eligible lender or holder that violates or fails to comply with any provision of title VII, part A, subpart I of the Act as amended (42 U.S.C. 292-292p), these regulations, or agreements with the Secretary concerning the HEAL program. Prior to terminating a lender or holder's participation in the program, the Secretary will provide the entity an opportunity for a hearing in accordance with the procedures under paragraph (b) of this section.

(b) The Secretary will provide any lender or holder subject to termination

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with a written notice, sent by certified mail, specifying his or her intention to terminate the lender or holder's participation in the program and stating that the entity may request, within 30 days of the receipt of this notice, a formal hearing. If the entity requests a hearing, it must, within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(1) The request for a hearing is untimely (i.e., fails to meet the 30-day requirement);

(2) The lender or holder does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(3) The statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial, by certified mail, to the lender or holder setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the lender or holder will be terminated from participation in the program. An entity will be permitted to reapply for participation in the program when it demonstrates, and the Secretary agrees, that it is in compliance with all HEAL requirements.

(c) This section does not apply to a determination that a HEAL lender fails to meet the statutory definition of an "eligible lender."

(d) This section also does not apply to administrative action by the Department of Health and Human Services based on any alleged violation of:

(1) Title VI of the Civil Rights Act of 1964, which is governed by 45 CFR part 80;

(2) Title IX of the Education Amendments of 1972, which is governed by 45 CFR part 86;

(3) The Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act, as amended), which is governed by 34 CFR part 99; or

(4) Title XI of the Right to Financial Privacy Act of 1978, Pub. L. 95-630 (12 U.S.C. 3401-3422).

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[48 FR 38988, Aug. 26, 1983, as amended at 57 FR 28799, June 29, 1992; 58 FR 67349, Dec. 21, 1993]

Subpart E—The School

§ 60.50 Which schools are eligible to be HEAL schools?

(a) In order to participate in the HEAL program, a school must enter into a written agreement with the Secretary. In the agreement, the school promises to comply with provisions of the HEAL law and the HEAL regulations. For initial entry into this agreement and for the agreement to remain in effect, a school must satisfy the following requirements:

(1) The school must be legally authorized within a State to conduct a course of study leading to one of the following degrees:

- Doctor of Medicine
- Doctor of Osteopathic Medicine
- Doctor of Dentistry or equivalent degree
- Bachelor or Master of Science in Pharmacy or equivalent degree
- Doctor of Optometry or equivalent degree
- Doctor of Veterinary Medicine or equivalent degree
- Doctor of Podiatric Medicine or equivalent degree
- Graduate or equivalent degree in Public Health
- Doctor of Chiropractic or equivalent degree
- Doctoral degree of Clinical Psychology
- Masters or doctoral degree in Health Administration

For the purposes of this section, the term "State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

(2)(i) The school must be accredited by a recognized agency approved for that course of study by the Secretary of Education, as described in paragraph (a)(2)(ii) of this section, except where a