

§ 668.134

the student to produce the documentation requested under § 668.33(a)(2) and may not request that INS perform secondary confirmation, if the student—

(i) Demonstrates eligibility under the provisions of § 668.33 (a)(1) or (b); or

(ii) Demonstrated eligibility under the provisions of § 668.33(a)(2) in a previous award year as a result of secondary confirmation and the documents used to establish that eligibility have not expired; and

(iii) The institution does not have conflicting documentation or reason to believe that the student's claim of citizenship or immigration status is incorrect.

(2) [Reserved]

(Approved by the Office of Management and Budget under control number 1840-0650)

(Authority: 20 U.S.C. 1091, 1094)

[58 FR 3184, Jan. 7, 1993, as amended at 58 FR 26674, May 4, 1993; 60 FR 61813, Dec. 1, 1995; 63 FR 40626, July 29, 1998]

§ 668.134 Institutional policies and procedures for requesting documentation and receiving secondary confirmation.

(a) An institution shall establish and use written policies and procedures for requesting proof and securing confirmation of the immigration status of applicants for title IV, HEA student financial assistance who claim to meet the eligibility requirements of § 668.33(a)(2). These policies and procedures must include—

(1) Providing the student a deadline by which to provide the documentation that the student wishes to have considered to support the claim that the student meets the requirements of § 668.33(a)(2);

(2) Providing to the student information concerning the consequences of a failure to provide the documentation by the deadline set by the institution; and

(3) Providing that the institution will not make a determination that the student is not an eligible noncitizen until the institution has provided the student the opportunity to submit the documentation in support of the student's claim of eligibility under § 668.33(a)(2).

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(b) An institution shall furnish, in writing, to each student required to undergo secondary confirmation—

(1) A clear explanation of the documentation the student must submit as evidence that the student satisfies the requirements of § 668.33(a)(2); and

(2) A clear explanation of the student's responsibilities with respect to the student's compliance with § 668.33(a)(2), including the deadlines for completing any action required under this subpart and the consequences of failing to complete any required action, as specified in § 668.137.

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(Authority: 20 U.S.C. 1091, 1092, 1094)

[58 FR 3184, Jan. 7, 1993, as amended at 58 FR 26674, May 4, 1993; 63 FR 40626, July 29, 1998]

§ 668.135 Institutional procedures for completing secondary confirmation.

Within 10 business days after an institution receives the documentary evidence of immigration status submitted by a student required to undergo secondary confirmation, the institution shall—

(a) Complete the request portion of the INS Document Verification Request Form G-845;

(b) Copy front and back sides of all immigration-status documents received from the student and attach copies to the Form G-845; and

(c) Submit Form G-845 and attachments to the INS District Office.

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(Authority: 20 U.S.C. 1091, 1094)

[58 FR 3184, Jan. 7, 1993, as amended at 58 FR 26674, May 4, 1993]

§ 668.136 Institutional determinations of eligibility based on INS responses to secondary confirmation requests.

(a) Except as provided in paragraphs (b) and (c) of this section, an institution that has requested secondary confirmation under § 668.133(a) shall make its determination concerning a student's eligibility under § 668.33(a)(2) by relying on the INS response to the Form G-845.

(b) An institution shall make its determination concerning a student's eligibility under §668.33(a)(2) pending the institution's receipt of an INS response to the institution's Form G-845 request concerning that student, if—

(1) The institution has given the student an opportunity to submit documents to the institution to support the student's claim to be an eligible non-citizen;

(2) The institution possesses sufficient documentation concerning a student's immigration status to make that determination;

(3) At least 15 business days have elapsed from the date that the institution sent the Form G-845 request to the INS;

(4) The institution has no documentation that conflicts with the immigration-status documentation submitted by the student; and

(5) The institution has no reason to believe that the immigration status reported by the applicant is incorrect.

(c) An institution shall establish and use policies and procedures to ensure that, if the institution has disbursed or released title IV, HEA funds to the student in the award year or employed the student under the Federal Work-Study Program, and the institution determines, in reliance on the INS response to the institution's request for secondary confirmation regarding that student, that the student was in fact not an eligible noncitizen during that award year, the institution provides the student with notice of the institution's determination, an opportunity to contest the institution's determination, and notice of the institution's final determination.

(Authority: 20 U.S.C. 1091, 1094)

[58 FR 3184, Jan. 7, 1993, as amended at 63 FR 40626, July 29, 1998]

§ 668.137 Deadlines for submitting documentation and the consequences of failure to submit documentation.

(a) A student shall submit before a deadline specified by the institution all documentation the student wishes to have considered to support a claim that the student meets the requirements of §668.33(a)(2). The deadline, set by the institution, must be not less than 30 days from the date the institu-

tion receives the student's output document.

(b) If a student fails to submit the documentation by the deadline established in accordance with paragraph (a) of this section, the institution may not disburse to the student, or certify the student as eligible for, any title IV, HEA program funds for that period of enrollment or award year; employ the student under the Federal Work-Study Program; certify a Federal Stafford or Federal PLUS loan application, or originate a Direct Loan Program loan application for the student for that period of enrollment.

(Authority: 20 U.S.C. 1091, 1094)

[58 FR 3184, Jan. 7, 1993, as amended at 63 FR 40626, July 29, 1998]

§ 668.138 Liability.

(a) A student is liable for any LEAP, FSEOG, or Federal Pell Grant payment and for any Federal Stafford, Direct Subsidized, Direct Unsubsidized or Federal Perkins loan made to him or her if the student was ineligible for the Title IV, HEA assistance.

(b) A Federal PLUS or Direct PLUS Loan borrower is liable for any Federal PLUS or Direct PLUS Loan made to him or her on behalf of an ineligible student.

(c) The Secretary does not take any action against an institution with respect to an error in the institution's determination that a student is an eligible noncitizen if, in making that determination, the institution followed the provisions in this subpart and relied on—

(1) An output document for that student indicating that the INS has confirmed that the student's immigration status meets the eligibility requirements for title IV, HEA assistance;

(2) An INS determination of the student's immigration status and the authenticity of the student's immigration documents provided in response to the institution's request for secondary confirmation; or

(3) Immigration-status documents submitted by the student and the institution did not have reason to believe that the documents did not support the student's claim to be an eligible non-citizen.