

§ 668.172

34 CFR Ch. VI (7-1-03 Edition)

against the institution under the procedures established in § 668.13(d).

(Approved by the Office of Management and Budget under control number 1840-0537)

(Authority: 20 U.S.C. 1094 and 1099c and section 4 of Pub. L. 95-452, 92 Stat. 1101-1109)

[62 FR 62877, Nov. 25, 1997, as amended at 63 FR 40348, July 28, 1998; 64 FR 59042, Nov. 1, 1999; 65 FR 65637, Nov. 1, 2000; 67 FR 67074, Nov. 1, 2002]

§ 668.172 Financial ratios.

(a) *Appendices A and B, ratio methodology.* As provided under appendices A and B to this subpart, the Secretary determines an institution's composite score by—

(1) Calculating the result of its Primary Reserve, Equity, and Net Income ratios, as described under paragraph (b) of this section;

(2) Calculating the strength factor score for each of those ratios by using the corresponding algorithm;

(3) Calculating the weighted score for each ratio by multiplying the strength factor score by its corresponding weighting percentage;

(4) Summing the resulting weighted scores to arrive at the composite score; and

(5) Rounding the composite score to one digit after the decimal point.

(b) *Ratios.* The Primary Reserve, Equity, and Net Income ratios are defined under appendix A for proprietary institutions, and under appendix B for private non-profit institutions.

(1) The ratios for proprietary institutions are:

For proprietary institutions:

$$\text{Primary Reserve ratio} = \frac{\text{Adjusted Equity}}{\text{Total Expenses}}$$

$$\text{Equity ratio} = \frac{\text{Modified Equity}}{\text{Modified Assets}}$$

$$\text{Net Income ratio} = \frac{\text{Income Before Taxes}}{\text{Total Revenues}}$$

(2) The ratios for private non-profit institutions are:

$$\text{Primary Reserve ratio} = \frac{\text{Expendable Net Assets}}{\text{Total Expenses}}$$

$$\text{Equity Ratio} = \frac{\text{Modified Net Assets}}{\text{Modified Assets}}$$

$$\text{Net Income ratio} = \frac{\text{Change in Unrestricted Net Assets}}{\text{Total Unrestricted Revenues}}$$

(c) *Excluded items.* In calculating an institution's ratios, the Secretary—

(1) Generally excludes extraordinary gains or losses, income or losses from discontinued operations, prior period adjustments, the cumulative effect of changes in accounting principles, and

the effect of changes in accounting estimates;

(2) May include or exclude the effects of questionable accounting treatments, such as excessive capitalization of marketing costs;

(3) Excludes all unsecured or uncollateralized related-party receivables;

(4) Excludes all intangible assets defined as intangible in accordance with generally accepted accounting principles; and

(5) Excludes from the ratio calculations Federal funds provided to an institution by the Secretary under program authorized by the HEA only if—

(i) In the notes to the institution's audited financial statement, or as a separate attestation, the auditor discloses by name and CFDA number, the amount of HEA program funds reported as expenses in the Statement of Activities for the fiscal year covered by that audit or attestation; and

(ii) The institution's composite score, as determined by the Secretary, is less than 1.5 before the reported expenses arising from those HEA funds are excluded from the ratio calculations.

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[62 FR 62877, Nov. 25, 1997, as amended at 63 FR 40348, July 28, 1998; 65 FR 65637, Nov. 1, 2000]

§ 668.173 Refund reserve standards.

(a) *General.* The Secretary considers that an institution has sufficient cash reserves, as required under § 668.171(b)(2), if the institution—

(1) Satisfies the requirements for a public institution under § 668.171(c)(1);

(2) Is located in a State that has a tuition recovery fund approved by the Secretary and the institution contributes to that fund; or

(3) Returns, in a timely manner as described in paragraph (b) of this section, unearned title IV, HEA program funds that it is responsible for returning under the provisions of § 668.22 for a student that withdrew from the institution.

(b) *Timely return of title IV, HEA program funds.* In accordance with procedures established by the Secretary or FFEL Program lender, an institution returns unearned title IV, HEA funds timely if—

(1) The institution deposits or transfers the funds into the bank account it maintains under § 668.163 no later than

30 days after the date it determines that the student withdrew;

(2) The institution initiates an electronic funds transfer (EFT) no later than 30 days after the date it determines that the student withdrew;

(3) The institution initiates an electronic transaction, no later than 30 days after the date it determines that the student withdrew, that informs an FFEL lender to adjust the borrower's loan account for the amount returned; or

(4) The institution issues a check no later than 30 days after the date it determines that the student withdrew. However, the Secretary considers that the institution did not satisfy this requirement if—

(i) The institution's records show that the check was issued more than 30 days after the date the institution determined that the student withdrew; or

(ii) The date on the cancelled check shows that the bank used by the Secretary or FFEL Program lender endorsed that check more than 45 days after the date the institution determined that the student withdrew.

(c) *Compliance thresholds.* (1) An institution does not comply with the reserve standard under § 668.173(a)(3) if, in a compliance audit conducted under § 668.23, an audit conducted by the Office of the Inspector General, or a program review conducted by the Department or guaranty agency, the auditor or reviewer finds—

(i) In the sample of student records audited or reviewed that the institution did not return unearned title IV, HEA program funds within the timeframes described in paragraph (b) of this section for 5% or more of the students in the sample. (For purposes of determining this percentage, the sample includes only students for whom the institution was required to return unearned funds during its most recently completed fiscal year.); or

(ii) A material weakness or reportable condition in the institution's report on internal controls relating to the return of unearned title IV, HEA program funds.

(2) The Secretary does not consider an institution to be out of compliance with the reserve standard under § 668.173(a)(3) if the institution is cited