

## § 600.41

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directly affects the institution, particular location, or the students of the institution or location; or

(iv) For purposes of the title IV, HEA programs—

(A) The institution's period of participation as specified under 34 CFR 668.13 expires; or

(B) The institution's provisional certification is revoked under 34 CFR 668.13.

(2) If an institution loses its eligibility because it violated the requirements of § 600.5(a)(8), as evidenced by the determination under provisions contained in § 600.5(d), it loses its eligibility on the last day of the fiscal year used in § 600.5(d), except that if an institution's latest fiscal year was described in § 600.7(h)(1), it loses its eligibility as of June 30, 1994.

(3) If an institution loses its eligibility under the provisions of § 600.7(a)(1), it loses its eligibility on the last day of the award year being evaluated under that provision.

(b) If the Secretary undertakes to terminate the eligibility of an institution because it violated the provisions of § 600.5(a)(8) or § 600.7(a), and the institution requests a hearing, the presiding official must terminate the institution's eligibility if it violated those provisions, notwithstanding its status at the time of the hearing.

(c)(1) If the Secretary designates an institution or any of its educational programs or locations as eligible on the basis of inaccurate information or documentation, the Secretary's designation is void from the date the Secretary made the designation, and the institution or program or location, as applicable, never qualified as eligible.

(2) If an institution closes its main campus or stops providing any educational programs on its main campus, it loses its eligibility as an institution, and that loss of eligibility includes all its locations and all its programs. Its loss of eligibility is effective on the date it closes that campus or stops providing any educational program at that campus.

(d) Except as otherwise provided in this part, if an institution ceases to satisfy any of the requirements for eligibility under this part—

(1) It must notify the Secretary within 30 days of the date that it ceases to satisfy that requirement; and

(2) It becomes ineligible to continue to participate in any HEA program as of the date it ceases to satisfy any of the requirements.

(Authority: 20 U.S.C. 1088, 1099a-3, and 1141)

[59 FR 22336, Apr. 29, 1994, as amended at 63 FR 40622, July 29, 1998]

### § 600.41 Termination and emergency action proceedings.

(a) If the Secretary believes that a previously designated eligible institution as a whole, or at one or more of its locations, does not satisfy the statutory or regulatory requirements that define that institution as an eligible institution, the Secretary may—

(1) Terminate the institution's eligibility designation in whole or as to a particular location—

(i) Under the procedural provisions applicable to terminations contained in 34 CFR 668.81, 668.83, 668.86, 668.87, 668.88, 668.89, 668.90 (a)(1), (a)(4), and (c) through (f), and 668.91; or

(ii) Under a show-cause hearing, if the institution's loss of eligibility results from—

(A) Its previously qualifying as an eligible vocational school;

(B) Its previously qualifying as an eligible institution, notwithstanding its unaccredited status, under the transfer-of-credit alternative to accreditation (as that alternative existed in 20 U.S.C. 1085, 1088, and 1141(a)(5)(B) and § 600.8 until July 23, 1992);

(C) Its loss of accreditation or preaccreditation;

(D) Its loss of legal authority to provide postsecondary education in the State in which it is physically located;

(E) Its violations of the provisions contained in § 600.5(a)(8) or § 600.7(a);

(F) Its permanently closing; or

(G) Its ceasing to provide educational programs for a reason other than a normal vacation period or a natural disaster that directly affects the institution, a particular location, or the students of the institution or location;

(2) Limit, under the provisions of 34 CFR 668.86, the authority of the institution to disburse, deliver, or cause the disbursement or delivery of funds

under one or more title IV, HEA programs as otherwise provided under 34 CFR 668.26 for the benefit of students enrolled at the ineligible institution or location prior to the loss of eligibility of that institution or location; and

(3) Initiate an emergency action under the provisions contained in 34 CFR 668.83 with regard to the institution's participation in one or more title IV, HEA programs.

(b) If the Secretary believes that an educational program offered by an institution that was previously designated by the Secretary as an eligible institution under the HEA does not satisfy relevant statutory or regulatory requirements that define that educational program as part of an eligible institution, the Secretary may in accordance with the procedural provisions described in paragraph (a) of this section—

(1) Undertake to terminate that educational program's eligibility under one or more of the title IV, HEA programs under the procedural provisions applicable to terminations described in paragraph (a) of this section;

(2) Limit the institution's authority to deliver, disburse, or cause the delivery or disbursement of funds provided under that title IV, HEA program to students enrolled in that educational program, as otherwise provided in 34 CFR 668.26; and

(3) Initiate an emergency action under the provisions contained in 34 CFR 668.83 with regard to the institution's participation in one or more title IV, HEA programs with respect to students enrolled in that educational program.

(c)(1) An action to terminate and limit the eligibility of an institution as a whole or as to any of its locations or educational programs is initiated in accordance with 34 CFR 668.86(b) and becomes final 20 days after the Secretary notifies the institution of the proposed action, unless the designated department official receives by that date a request for a hearing or written material that demonstrates that the termination and limitation should not take place.

(2) Once a termination under this section becomes final, the termination is effective with respect to any commit-

ment, delivery, or disbursement of funds provided under an applicable title IV, HEA program by the institution—

(i) Made to students enrolled in the ineligible institution, location, or educational program; and

(ii) Made on or after the date of the act or omission that caused the loss of eligibility as to the institution, location, or educational program.

(3) Once a limitation under this section becomes final, the limitation is effective with regard to any commitment, delivery, or disbursement of funds under the applicable title IV, HEA program by the institution—

(i) Made after the date on which the limitation became final; and

(ii) Made to students enrolled in the ineligible institution, location, or educational program.

(d) After a termination under this section of the eligibility of an institution as a whole or as to a location or educational program becomes final, the institution may not certify applications for, make awards of or commitments for, deliver, or disburse funds under the applicable title IV, HEA program, except—

(1) In accordance with the requirements of 34 CFR 668.26(c) with respect to students enrolled in the ineligible institution, location, or educational program; and

(2) After satisfaction of any additional requirements, imposed pursuant to a limitation under paragraph (a)(2) of this section, which may include the following:

(i) Completion of the actions required by 34 CFR 668.26(a) and (b).

(ii) Demonstration that the institution has made satisfactory arrangements for the completion of actions required by 34 CFR 668.26(a) and (b).

(iii) Securing the confirmation of a third party selected by the Secretary that the proposed disbursements or delivery of title IV, HEA program funds meet the requirements of the applicable program.

(iv) Using institutional funds to make disbursements permitted under this paragraph and seeking reimbursement from the Secretary for those disbursements.

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(e) If the Secretary undertakes to terminate the eligibility of an institution, location, or program under paragraphs (a) and (b) of this section:

(1) If the basis for the loss of eligibility is the loss of accreditation or preaccreditation, the sole issue is whether the institution, location, or program has the requisite accreditation or preaccreditation. The presiding official has no authority to consider challenges to the action of the accrediting agency.

(2) If the basis for the loss of eligibility is the loss of legal authorization, the sole issue is whether the institution, location, or program has the requisite legal authorization. The presiding official has no authority to consider challenges to the action of a State agency in removing the legal authorization.

(Authority: 20 U.S.C. 1088, 1091, 1094, 1099a-3, and 1141)

[59 FR 22336, Apr. 29, 1994, as amended at 63 FR 40623, July 29, 1998]

### **Subpart E—Eligibility of Foreign Institutions To Apply To Participate in the Federal Family Education Loan (FFEL) Programs**

SOURCE: 59 FR 22063, Apr. 28, 1994, unless otherwise noted.

#### **§ 600.51 Purpose and scope.**

(a) A foreign institution is eligible to apply to participate in the Federal Family Education Loan (FFEL) programs if it is comparable to an eligible institution of higher education located in the United States and has been approved by the Secretary in accordance with the provisions of this subpart.

(b) This subpart E contains the procedures and criteria under which a foreign institution may be deemed eligible to apply to participate in the FFEL programs.

(c) This subpart E does not include the procedures and criteria by which a foreign institution that is deemed eligible to apply to participate in the FFEL programs actually applies for that participation. Those procedures and criteria are contained in the regu-

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lations for the FFEL programs, 34 CFR part 682, subpart F.

(d)(1) A program offered by a foreign school through any use of a telecommunications course, correspondence course, or direct assessment program is not an eligible program;

(2) *Correspondence course* has the meaning given in § 600.2;

(3) *Direct assessment program* has the meaning given in § 668.10(a)(1) of this chapter;

(4) *Telecommunications course* is a course offered through any one or a combination of the technologies listed in the definition of telecommunications course in § 600.2, except that telecommunications technologies may be used to supplement and support instruction that is offered in a classroom located in the foreign country where the students and instructor are physically present.

(Authority: 20 U.S.C. 1082, 1088)

[59 FR 22063, Apr. 28, 1994, as amended at 71 FR 45692, Aug. 9, 2006]

#### **§ 600.52 Definitions.**

The following definitions apply to this subpart E:

*Foreign graduate medical school:* A foreign institution that qualifies to be listed in, and is listed as a medical school in, the most current edition of the *World Directory of Medical Schools* published by the World Health Organization (WHO).

*Foreign institution:* An institution that is not located in a State.

*Passing score:* The minimum passing score as defined by the Educational Commission for Foreign Medical Graduates (ECFMG).

*Secondary school:* A school that provides secondary education as determined under the laws of the country in which the school is located.

(Authority: 20 U.S.C. 1082, 1088)

#### **§ 600.53 Requesting an eligibility determination.**

(a) To be designated as eligible to apply to participate in the FFEL programs or to continue to be eligible beyond the scheduled expiration of the institution's current period of eligibility, a foreign institution must—