

HEA program funds when a student withdraws under § 668.22, its standards of satisfactory progress, and other conditions that may alter the student's aid package;

(i) Has provided all program and fiscal reports and financial statements required for compliance with the provisions of this part and the individual program regulations in a timely manner;

(j) Shows no evidence of significant problems that affect, as determined by the Secretary, the institution's ability to administer a Title IV, HEA program and that are identified in—

(1) Reviews of the institution conducted by the Secretary, the Department of Education's Office of Inspector General, nationally recognized accrediting agencies, guaranty agencies as defined in 34 CFR part 682, the State agency or official by whose authority the institution is legally authorized to provide postsecondary education, or any other law enforcement agency; or

(2) Any findings made in any criminal, civil, or administrative proceeding;

(k) Is not, and does not have any principal or affiliate of the institution (as those terms are defined in 34 CFR part 85) that is—

(1) Debarred or suspended under Executive Order (E.O.) 12549 (3 CFR, 1986 Comp., p. 189) or the Federal Acquisition Regulations (FAR), 48 CFR part 9, subpart 9.4; or

(2) Engaging in any activity that is a cause under 34 CFR 85.305 or 85.405 for debarment or suspension under E.O. 12549 (3 CFR, 1986 Comp., p. 189) or the FAR, 48 CFR part 9, subpart 9.4;

(l) For an institution that seeks initial participation in a Title IV, HEA program, does not have more than 33 percent of its undergraduate regular students withdraw from the institution during the institution's latest completed award year. The institution must count all regular students who are enrolled during the latest completed award year, except those students who, during that period—

(1) Withdrew from, dropped out of, or were expelled from the institution;

(2) Were entitled to and actually received in a timely manner, a refund of 100 percent of their tuition and fees;

(m)(1) Has a cohort default rate—

(i) Calculated under subpart M of this part, that is less than 25 percent for each of the three most recent fiscal years for which the Secretary has determined the institution's rate; and

(ii) As defined in 34 CFR 674.5, on loans made under the Federal Perkins Loan Program to students for attendance at that institution that does not exceed 15 percent;

(2)(i) However, if the Secretary determines that an institution's administrative capability is impaired solely because the institution fails to comply with paragraph (m)(1) of this section, the Secretary allows the institution to continue to participate in the Title IV, HEA programs but may provisionally certify the institution in accordance with § 668.13(c); and

(ii) The institution may appeal the loss of full participation in a Title IV, HEA program under paragraph (m)(1) of this section by submitting an erroneous data appeal in writing to the Secretary in accordance with and on the grounds specified in subpart M of this part;

(n) Does not otherwise appear to lack the ability to administer the Title IV, HEA programs competently; and

(o) Participates in the electronic processes that the Secretary—

(1) Provides at no substantial charge to the institution; and

(2) Identifies through a notice published in the FEDERAL REGISTER.

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

(Authority: 20 U.S.C. 1082, 1094, and 1099c)

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§§ 668.17–668.18 [Reserved]

§ 668.19 Financial aid history.

(a) Before an institution may disburse title IV, HEA program funds to a student who previously attended another eligible institution, the institution must use information it obtains

from the Secretary, through the National Student Loan Data System (NSLDS) or its successor system, to determine—

(1) Whether the student is in default on any title IV, HEA program loan;

(2) Whether the student owes an overpayment on any title IV, HEA program grant or Federal Perkins Loan;

(3) For the award year for which a Federal Pell Grant, an ACG, a National SMART Grant, or a TEACH Grant is requested, the student's Scheduled Federal Pell Grant, ACG, National SMART Grant, or a TEACH Grant Award and the amount of Federal Pell Grant, ACG, National SMART Grant, or a TEACH Grant funds disbursed to the student;

(4) The outstanding principal balance of loans made to the student under each of the title IV, HEA loan programs; and

(5) For the academic year for which title IV, HEA aid is requested, the amount of, and period of enrollment for, loans made to the student under each of the title IV, HEA loan programs.

(b)(1) If a student transfers from one institution to another institution during the same award year, the institution to which the student transfers must request from the Secretary, through NSLDS, updated information about that student so it can make the determinations required under paragraph (a) of this section; and

(2) The institution may not make a disbursement to that student for seven days following its request, unless it receives the information from NSLDS in response to its request or obtains that information directly by accessing NSLDS, and the information it receives allows it to make that disbursement.

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(Authority: 20 U.S.C. 1070g, 1091, 1094)

[65 FR 65675, Nov. 1, 2000, as amended at 71 FR 38002, July 3, 2006; 73 FR 35492, June 23, 2008]

§ 668.20 Limitations on remedial coursework that is eligible for Title IV, HEA program assistance.

(a) A noncredit or reduced credit remedial course is a course of study de-

signed to increase the ability of a student to pursue a course of study leading to a certificate or degree.

(1) A noncredit remedial course is one for which no credit is given toward a certificate or degree; and

(2) A reduced credit remedial course is one for which reduced credit is given toward a certificate or degree.

(b) Except as provided in paragraphs (c) and (d) of this section, in determining a student's enrollment status and cost of attendance, an institution shall include any noncredit or reduced credit remedial course in which the student is enrolled. The institution shall attribute the number of credit or clock hours to a noncredit or reduced credit remedial course by—

(1) Calculating the number of classroom and homework hours required for that course;

(2) Comparing those hours with the hours required for nonremedial courses in a similar subject; and

(3) Giving the remedial course the same number of credit or clock hours it gives the nonremedial course with the most comparable classroom and homework requirements.

(c) In determining a student's enrollment status under the Title IV, HEA programs or a student's cost of attendance under the campus-based, FFEL, and Direct Loan programs, an institution may not take into account any noncredit or reduced credit remedial course if—

(1) That course is part of a program of instruction leading to a high school diploma or the recognized equivalent of a high school diploma, even if the course is necessary to enable the student to complete a degree or certificate program;

(2) The educational level of instruction provided in the noncredit or reduced credit remedial course is below the level needed to pursue successfully the degree or certificate program offered by that institution after one year in that remedial course; or

(3) Except for a course in English as a second language, the educational level of instruction provided in that course is below the secondary level. For purposes of this section, the Secretary considers a course to be below