

set by the Secretary through publication of a notice in the FEDERAL REGISTER. If the institution receives a verified SAR or ISIR during the established additional time period, and the EFC on the two SARs or ISIRs are different, payment must be based on the higher of the two EFCs.

(2) If the applicant does not provide to the institution the requested documentation and, if necessary, a verified SAR or the institution does not receive a verified ISIR, within the additional time period referenced in paragraph (c)(1) of this section, the applicant—

(i) Forfeits the Federal Pell Grant, ACG, or National SMART Grant for the award year; and

(ii) Shall return any Federal Pell Grant, ACG, or National SMART Grant payments previously received for that award year to the Secretary.

(d) The Secretary may determine not to process any subsequent application for Federal Pell Grant, ACG, or National SMART Grant program assistance, and an institution, if directed by the Secretary, may not process any subsequent application for campus-based, Federal Direct Stafford/Ford Loan, or Federal Stafford Loan program assistance of an applicant who has been requested to provide documentation until the applicant provides the documentation or the Secretary decides that there is no longer a need for the documentation.

(e) If an applicant selected for verification for an award year dies before the deadline for completing the verification process without completing that process, and the deadline is in the subsequent award year, the institution may not—

(1) Make any further disbursements on behalf of that applicant;

(2) Certify that applicant's Federal Stafford Loan application, originate that applicant's Direct Subsidized Loan, or process that applicant's Federal Stafford Loan or Direct Subsidized Loan proceeds; or

(3) Consider any funds it disbursed to that applicant under § 668.58(a)(2) as an overpayment.

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

[56 FR 61337, Dec. 2, 1991, as amended at 59 FR 22068, Apr. 28, 1994; 59 FR 61207, Nov. 29, 1994; 63 FR 40625, July 29, 1998; 71 FR 64419, Nov. 1, 2006]

§ 668.61 Recovery of funds.

(a) If an institution discovers, as a result of the verification process, that an applicant received under § 668.58(a)(2)(ii)(A) more financial aid than the applicant was eligible to receive, the institution shall eliminate the overpayment by—

(1) Adjusting subsequent financial aid payments in the award year in which the overpayment occurred; or

(2) Reimbursing the appropriate program account by—

(i) Requiring the applicant to return the overpayment to the institution if the institution cannot correct the overpayment under paragraph (a)(1) of this section; or

(ii) Making restitution from its own funds, by the earlier of the following dates, if the applicant does not return the overpayment:

(A) Sixty days after the applicant's last day of attendance.

(B) The last day of the award year in which the institution disbursed Federal Pell Grant, ACG, National SMART Grant, Federal Perkins Loan, or FSEOG funds to the applicant.

(b)(1) If the institution determines as a result of the verification process that an applicant received Stafford Loan or proceeds for an award year in excess of the student's financial need for the loan, the institution shall withhold and promptly return to the lender or escrow agent any disbursement not yet delivered to the student that exceeds the amount of assistance for which the student is eligible, taking into account other financial aid received by the student. However, instead of returning the entire undelivered disbursement, the school may choose to return promptly to the lender only the portion of the disbursement for which the student is ineligible. In either case, the institution shall provide the lender with a written statement describing the reason for the returned loan funds.

§ 668.71

(2) If the institution determines as a result of the verification process that a student received Direct Subsidized Loan proceeds for an award year in excess of the student's need for the loan, the institution shall reduce or cancel one or more subsequent disbursements to eliminate the amount in excess of the student's need.

(Approved by the Office of Management and Budget under control number 1840-0570)

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

[56 FR 61337, Dec. 2, 1991, as amended at 57 FR 39089, Aug. 27, 1992; 59 FR 22068, Apr. 28, 1994; 59 FR 23095, May 4, 1994; 59 FR 61207, Nov. 29, 1994; 63 FR 40626, July 29, 1998; 71 FR 64419, Nov. 1, 2006]

Subpart F—Misrepresentation

SOURCE: 51 FR 43324, Dec. 1, 1986, unless otherwise noted.

§ 668.71 Scope and special definitions.

(a) This subpart establishes the standards and rules by which the Secretary may initiate a proceeding under subpart G against an otherwise eligible institution for any substantial misrepresentation made by that institution regarding the nature of its educational program, its financial charges or the employability of its graduates.

(b) The following definitions apply to this subpart:

Misrepresentation: Any false, erroneous or misleading statement an eligible institution makes to a student enrolled at the institution, to any prospective student, to the family of an enrolled or prospective student, or to the Secretary. Misrepresentation includes the dissemination of endorsements and testimonials that are given under duress.

Prospective student: Any individual who has contacted an eligible institution for the purpose of requesting information about enrolling at the institution or who has been contacted directly by the institution or indirectly through general advertising about enrolling at the institution.

Substantial misrepresentation: Any misrepresentation on which the person to whom it was made could reasonably

34 CFR Ch. VI (7-1-08 Edition)

be expected to rely, or has reasonably relied, to that person's detriment.

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

§ 668.72 Nature of educational program.

Misrepresentation by an institution of the nature of its educational program includes, but is not limited to, false, erroneous or misleading statements concerning—

(a) The particular type(s), specific source(s), nature and extent of its accreditation;

(b) Whether a student may transfer course credits earned at the institution to any other institution;

(c) Whether successful completion of a course of instruction qualifies a student for—

(1) Acceptance into a labor union or similar organization; or

(2) Receipt of a local, State or Federal license or a non-governmental certification required as a precondition for employment or to perform certain functions;

(d) Whether its courses are recommended by—

(1) Vocational counselors, high schools or employment agencies; or

(2) Governmental officials for governmental employment;

(e) Its size, location, facilities or equipment;

(f) The availability, frequency and appropriateness of its courses and programs to the employment objectives that it states its programs are designed to meet;

(g) The nature, age and availability of its training devices or equipment and their appropriateness to the employment objectives that it states its programs and courses are designed to meet;

(h) The number, availability and qualifications, including the training and experience, of its faculty and other personnel;

(i) The availability of part-time employment or other forms of financial assistance;

(j) The nature and availability of any tutorial or specialized instruction, guidance and counseling, or other supplementary assistance it will provide its students before, during or after the completion of a course;