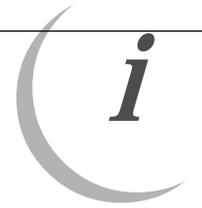

Introduction



The purpose of this publication is to describe how a school becomes eligible to participate in the Student Financial Assistance (SFA) programs and to explain the administrative and fiscal requirements of SFA program participation. In addition, this publication discusses other issues relevant to the general administration of the SFA programs.

This chapter provides a *summary* of the changes and clarifications presented in greater detail in the chapters that follow. Alone, the text here does **not** provide schools with the guidance needed to satisfactorily administer the Title IV, HEA programs. For more complete guidance, you should refer to the text in the chapters cited, the Code of Federal Regulations (CFR) and the Higher Education Assistance Act (HEA) as amended.

Throughout this volume, new information is indicated with the following symbol.



When the text represents a clarification rather than a change, it is indicated with this symbol.



MAJOR CHANGES BY CHAPTER:

Chapter 1– Institutional and Program Eligibility and Chapter 2 – General Participation Requirements

√ In the regulations describing an eligible program, we have modified the definition of a week of instructional time to clarify that homework does not count as instructional time. In the regulations describing an academic year, we have modified the definition of instruction(al) time to clarify that homework does not count as instructional time. In addition, we make clear that, in terms of preparation for examinations, only study for final examinations that occurs after the last scheduled day of classes for a payment period counts as instructional time.

Eligible Program Cite
34 CFR 668.8(b)(3) and (4)

Academic Year Cite
34 CFR 668.2b(2)

If an institution provides an educational program using a semester, trimester, or quarter system, or in clock hours, a week of instructional time in that program must contain

1. at least one day of regularly scheduled instruction or examinations; or
2. after the last scheduled day of classes for a term, at least one day of study for initial examinations.

If an institution provides an educational program using credit hours but not a semester, trimester, or quarter system, a week of instructional time in that program must contain

1. at least 12 hours of regularly scheduled instruction or examinations; or
2. after the last scheduled day of classes for a payment period, at least 12 hours of study for final examinations.

Moreover, instructional time does not include periods of vacation, homework, periods of orientation or counseling.

Chapter 3: Administrative Capability

Relying on NSLDS for Financial
Aid History Cite
34 CFR 668.19

- √ The new regulations eliminate the paper Financial Aid Transcript (FAT) requirement for all students and mandate the use of NSLDS data for purposes of obtaining financial aid history information.

The regulations make a distinction between two types of transfer students. For a prior-year transfer, an institution may continue to rely on the Institutional Student Information Report (ISIR) financial aid history information it receives for that student. For a current-year transfer student, under the new regulations, instead of requesting a paper FAT from the former institution, the new institution requests updated student eligibility information from NSLDS.

The new regulations also replace the various certification, origination, and disbursement provisions in the former rules with only one requirement: an institution may not make a disbursement of Title IV, HEA program funds to a current-year transfer student for seven days after it requests updated information from NSLDS. An institution may make a disbursement to a student who is otherwise eligible if, within the seven-day period, NSLDS provides the updated information to the institution, or the institution obtains the information itself directly from NSLDS.

Finally, the new regulations eliminate the requirement that an institution that receives a request for the completion of a paper FAT, must respond to that request. **However, through July 1, 2001 in all cases where a new institution or student requests a paper FAT, the former institution must complete and promptly return the FAT.**

Chapter 5: Cash Management

- √ Institutions are required to notify to a student or parent borrower when Title IV, HEA program loan proceeds are used to credit the student's account at the institution. Formerly, the regulation allowed this notice to be sent electronically, but required the student or parent to confirm receipt of the notice and the institution to maintain a copy of that confirmation.

The requirement that the institution compel a student or parent to confirm receipt has been eliminated. The new regulation requires the institution confirm receipt of electronic notices by the student or parent and to maintain documentation of that confirmation.

Notification Cite

34 CFR 668.165(a)(3)(ii)

Chapter 6: Withdrawals

- √ In December 2000 we published a Dear Colleague Letter (DC-GEN-00-24) that answered many of the questions participating schools had asked about the Return to Title IV Funds requirement. These answers and additional clarifications have been incorporated into chapter 6.

Chapter 8: Record Keeping and Disclosure

- √ Regulations require an institution to establish and maintain program and fiscal records that include, among other things, a certification that each FWS student has worked and earned the amount being paid. Formerly, the regulations required that the certification be handwritten and include the signature of the FWS student's supervisor.

The new regulations give institutions the option of continuing to have a FWS student's supervisor sign his or her name on a paper certification. However the new regulations remove the requirement that the certification have the handwritten signature of the FWS student's supervisor. **This change does not remove the certification requirement** that helps ensure that the supervisor is reviewing the time record prior to paying the student.

Rather the change provides flexibility to institutions by allowing the use of an electronic certification or a certification through other appropriate means.

FWS Record Keeping Cite

34 CFR 675.19(b)

An institution that chooses to use a system that incorporates an electronic certification must adopt reasonable safeguards against possible fraud and abuse. The institution should provide a secure electronic certification through an electronic payroll system that includes:

1. password protection;
2. password changes at set intervals;
3. access revocation for unsuccessful log-ins;
4. user identification and entry point tracking;
5. random audit surveys with supervisors; and
6. security tests of the code access.

Chapter 9: Agreements Between Schools

Written Agreements Between
Schools Cite
34 CFR 668.5

√ Previously, Section 600.9 of the Institutional Eligibility regulations and Section 690.9 of the Federal Pell Grant Program regulations governed written agreements between a student's eligible home institution and a second institution or organization when all or part of a student's educational program is provided by the second school or organization.

These agreements are commonly referred to as consortium and contractual agreements. We removed and reserved 34 CFR 600.9 and 34 CFR 690.9 and consolidated most of the provisions previously contained in those sections into a new 34 CFR 668.5. This consolidation not only makes the regulations easier to use, it also makes it clear that the provisions apply to all of the Title IV student assistance programs and not just to the Federal Pell Grant Program

Agreements with
Study-Abroad Organizations
34 CFR 668.5(b)

The new regulations permit an eligible institution to have a written agreement with a study-abroad organization that represents one or more foreign institutions instead of separate agreements directly with each foreign institution that its students are attending.

Disbursing Funds Cite
34 CFR 668.5(d)(2)

For purposes of administering the Title IV, HEA programs, and the written agreement between the eligible institution and the study abroad organization must adequately describe the duties and responsibilities of each entity and meet the requirements of the regulations. When there is a written arrangement between eligible institutions, any of the institutions participating in the written arrangement may make Title IV, HEA program calculations and disbursements without that institution being considered a third-party servicer. This is true even if the student is not taking courses at the institution that is calculating and disbursing the aid.

Chapter 10: Applying for and Maintaining Participation in the SFA Programs

√ The regulations clarified that a currently designated eligible institution that participates in the Title IV, HEA programs must, among other requirements, reapply if the institution wishes to reestablish eligibility and certification after the institution changes its status as a proprietary, nonprofit, or public institution.

√ The Department does **not** consider that a public institution has undergone a change in ownership that results in a change of control if there is a change in governance and the institution after the change remains a public institution, provided

1. the new governing authority is in the same state as included in the institution's program participation agreement; and
2. the new governing authority has acknowledged the public institution's continued responsibilities under its program participation agreement.

However, within 10 days of undergoing a change in governance, public institutions must report that change to the Department.

√ We clarified and amended the changes that an institution must **report** to the Department within ten days:

1. **the individual the institution designates as its Title IV, HEA program administrator;**
2. the closure of a branch campus or additional location that the institution was required to report;
3. a decrease in the level of program offering (e.g. the institution drops its graduate programs);
4. its name, the name of a branch, or the name of a previously reported location;
5. its address, the address of a branch, or the address of a previously reported location;
6. the way it measures program length (e.g., from clock hours to credit hours, or from semester hours to quarter hours);
7. a person's ability to affect substantially the actions of the institution if that person did not previously have this ability; and
8. the governance of a public institution.

Reapplication Cite

34 CFR 600.20(b)(2)

Changes in Ownership or Control of Public Institutions Cite

34 CFR 600.31(c)(7)

Updating Information Cite

34 CFR 600.21(a)

Reporting Requirements Cite

34 CFR 600.21(a)

√ The revisions amend the list of positions or persons that are deemed to substantially affect the actions of the institution, eliminating members of an institution's board of directors or trustees. The regulations now clearly identify a general partner, the chief executive officer, chief financial officer, and the individual designated as the lead program administrator for Title IV, HEA programs at the institution as those who have the ability to substantially affect an institution's administration of the Title IV, HEA programs.

An institution that is owned by a publicly traded corporation that experiences the material changes described in 34 CFR 600.21 (a) (6) must notify the Department when it notifies its accrediting agency, but no later than ten days after the change is known to the institution.

Updating for Additional Locations Cite

√ In addition, all institutions are required to report to the Department adding an additional accredited and licensed location where they will be offering 50 percent or more of an eligible program if the institution wants to disburse Title IV, HEA program funds to students enrolled at that location.

Disbursement Rules at Additional Locations Cite

34 CFR 600.21(d)

√ Institutions must **not** disburse Title IV, HEA program funds to students at that location before the institution has reported that location to the Department. Once it has reported a new licensed accredited location and provided all required supporting documents, unless it is an institution that is required under 34 CFR 600.20 (c) (1) to apply for approval for a new location, an institution may disburse Title IV, HEA program funds to students enrolled at that location.

Applying to Expand Eligibility Cite

34 CFR 600.20(c)(1)

√ If an institution meets one or more of the following criteria, it must apply for and wait for approval before disbursing Title IV, HEA program funds at an additional location where it will be offering 50 percent or more of an eligible program.

An institution must apply if the institution

1. is provisionally certified;
2. is on the cash monitoring or reimbursement system of payment;
3. has acquired the assets of another institution that provided educational programs at that location during the preceding

year, and the other institution participated in the Title IV, HEA programs during that year;

4. would be subject to a loss of eligibility under the cohort default rate regulations (34 CFR 688.188) if it adds that location; or
5. if the Department previously instructed the institution that it must not disburse Title IV, HEA program funds to students enrolled at an additional location before the Department notifies the institution that the location is eligible to participate.

√ The changes expand and clarify other events that require a currently eligible institution to submit an Application. An institution must apply for approval if it

1. increases the level of its program offerings (e.g. adding degree programs when previously it offered only nondegree programs.
2. adds an educational program if the institution is required to apply for approval under 34 CFR 600.10(c)
3. adds a branch campus at a location that is not included in the institution's eligibility and certification designation; or
4. converts a currently eligible location to a branch campus.

√ A public, private nonprofit or private for-profit institution that experiences a change in ownership or change in status that causes a change in control may **not** disburse Title IV, HEA program funds to students attending that institution after the change of ownership or status until the Department notifies the institution that it is eligible to participate in those programs.

However, an institution may make lawful disbursements if the Department issues a provisional extension of certification under 34 CFR 600.20(g).

√ If an institution is required to apply if it wants to:

1. add an additional location where it will be offering 50 percent or more of an eligible program under 34 CFR 600.20(c) (1);
2. increase the level of its program offerings;

Applying to Expand Eligibility Cite

34 CFR 60.20(c)(2) - (5)

Disbursement Rules Related to Applications Cite

34 CFR 600.20(f)(2)(i)

Exceptions Cite

34 CFR 600.20(f)(2)(ii)

Wait Before Disbursing
34 CFR 600.20(f)(3)

3. add an educational program if the institution is required to apply to for approval under 34 CFR 600.10(c); or
4. add a branch campus at a location that is not included in the institution's eligibility and certification designation.

The institution may not disburse Title IV, HEA program funds to students attending the subject location, program, or branch until the Department notifies the institution that the location, program, or branch is eligible to participate in the Title IV, HEA programs.

Disbursing when an Eligible Location is Converted to a Branch Cite
34 CFR 600.20(f)(4)

- √ If an institution applies to convert an eligible location to a branch campus, the institution may continue to disburse Title IV, HEA program funds to students attending that eligible location.

Liability for Unlawful Disbursements
34 CFR 600.20(f)(5)

- √ If an institution fails to apply for approval or fails to obtain approval of a new location, program, increase in the level of program offerings, or branch, and the location, program, or branch does not qualify as an eligible location, program, or branch of that institution, the institution is liable for all Title IV, HEA program funds it disburses to students enrolled at that location or branch or in that program.

Change in Ownership Cite
34 CFR 600.31(a)

- √ A change in ownership that results in a change in control includes any change through which a person
1. acquires an ownership interest in the entity that owns the institution or the parent corporation of that entity, or
 2. who owns or acquires an ownership interest attains or loses the ability to control the institution.

Ownership Interest Cite
34 CFR 600.31(b)

- √ The definition of ownership now includes ownership interest. Ownership or ownership interest means a legal or beneficial interest in an institution or its corporate parent, or a right to share in the profits derived from the operation of an institution or its corporate parent.

Ownership or ownership interest does not include an ownership interest held by

1. a mutual fund that is regularly and publicly traded;

2. a U.S. institutional investor as defined by the Security and Exchange Commission;
3. a profit-sharing plan of the institution or its corporate parent (provided that all full-time permanent employees of the institution or corporate parent are included in the plan); or
4. an Employee Stock Ownership Plan (ESOP).

Institutional Investor Cite
17 CFR 240.15

√ For publicly traded corporations, a change in ownership and control occurs when

Identifying Changes in Ownership or Control cite
34 CFR 600.31(c)(2)

1. a person acquires such ownership and control of the corporation that the corporation is required to file a Form 8K with the Securities and Exchange Commission (SEC) notifying that agency of the change in control; or
2. a person who is a controlling shareholder of the corporation ceases to be a controlling shareholder.

A controlling shareholder is a shareholder who holds or controls through agreement both 25 percent or more of the total outstanding voting stock of the corporation and more shares of voting stock than any other shareholder. A controlling shareholder for this purpose does not include a shareholder whose sole stock ownership is held as a U.S. institutional investor (as defined by the SEC), held in mutual funds, held through a profit-sharing plan, or held in an Employee Stock Ownership Plan (ESOP).

For a publicly traded corporation, when a change of ownership occurs, instead of a same-day balance sheet, the institution may submit its most recent quarterly financial statement as filed with the SEC. Together with its quarterly financial statement, the institution must submit copies of all other SEC filings made after the close of the fiscal year for which a compliance audit has been submitted to the Department of Education.

If a publicly traded institution that is provisionally certified due to a change in ownership experiences another change of ownership, approval of the subsequent change in ownership does not extend the expiration date for the original provisional certification. In addition, if any controlling shareholder on the second change of ownership application was listed on the change of ownership application for which the original provisional approval was granted the approval of the subsequent change in ownership does also does not extend the expiration date for the original provisional certification.

Covered Transactions Cite

34 CFR 600.31(d)

√ The changes clarified that profit and nonprofit institution change ownership and control when one of the following transactions occurs

1. the sale of the institution;
2. the transfer of the controlling interest of stock of the institution or its parent corporation;
3. the merger of two or more eligible institutions;
4. the division of one institution into two or more institutions;
5. the transfer of the liabilities of an institution to its parent corporation;
6. a transfer of assets that comprise a substantial portion of the educational business of the institution, except where the transfer consists exclusively in the granting of a security interest in those assets; or
7. **a change in status as a for profit, nonprofit, or public institution**

Certification Cite

34 CFR 668.13

√ The new regulations modify and simplify the certification training requirements for chief executive officers and financial aid administrators. First, the regulations limit the conditions under which this training is required to

1. when an institution wishes to participate in the Title IV, HEA programs for the first time; and
2. when there is a change of ownership.

The requirement that an institution participate in certification training when participating, for the first time, in a new Title IV program has been removed. Second, for all institutions, the regulations provide that the chief executive may elect to send for Title IV certification training another executive level officer of the institution in his or her stead. Both the chief financial aid administrator and the chief executive of the institution, or designee, must attend the certification training no later than twelve months after the institution executes its program participation agreement.

The institution may request a waiver of the training requirement for either the financial aid administrator or the chief administrator. The Department may grant or deny the waiver for the required individual, require another official to take the training, or require alternative training.

We are interested in hearing your comments or suggestions on ways to make the SFA Handbook more useful. Please send your comments to:

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