



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

THE ASSISTANT SECRETARY

NOV 04 2014

DCL ID: GEN-14-20

Subject: Ineligible Courses at Foreign Institutions

Summary: This letter provides guidance regarding the limitations on coursework that may be offered by a foreign institution as part of an eligible program for students receiving funds under the Federal Direct Loan program.

Dear Colleague:

As you know, an institution's participation in the William D. Ford Direct Loan (Direct Loan) Program, authorized under Title IV of the Higher Education Act of 1965 (Title IV), as amended, is governed by U.S. laws and regulations. Those laws and regulations specify the conditions under which students at foreign institutions may receive Direct Loan funds.

All programs offered by foreign institutions to Direct Loan recipients must meet the U.S. Department of Education's (Department) program eligibility requirements (see, e.g., 34 CFR §600.51, *et seq.*). The Department's regulations regarding the eligibility of foreign institutions to apply to participate in the Direct Loan Program contain certain restrictions on programs in which Direct Loan recipients may enroll:

- Under §600.51(d), a program offered by a foreign institution may not include any use of a telecommunications course (distance education), correspondence course, or direct assessment, except that distance education technologies may be used to supplement and support instruction in a classroom located in the foreign country where the students and instructor are physically present.
- Under §600.52, a foreign institution may not permit students to enroll in any course offered by the foreign institution that takes place in the United States, including research, work, internship, externship, or special studies. Despite this prohibition, independent research done by an individual student in the United States for not more than one academic year is permissible if it is conducted during the dissertation phase of a doctoral program under the guidance of faculty and the research can only be performed in the United States. (Additional guidance on the Title IV program ineligibility of foreign institution programs offered in the U.S. can be found in Dear Colleague Letter GEN-11-18.)
- Under §600.54(c), an eligible foreign institution may not enter into an arrangement under which a Title IV-ineligible entity provides any portion of the eligible institution's programs (except for affiliation agreements for the provision of clinical training for foreign medical, veterinary, and nursing schools).

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For the purposes of this guidance, all courses that fall under one or more of these restrictions are referred to generally as "ineligible courses." Any program offered by a foreign institution that permits a student to take such ineligible courses for credit toward a credential is not considered a Title IV-eligible program. Otherwise-eligible students who are enrolled in an ineligible program may not receive Direct Loan funds for enrollment in that program.

The Department has received numerous questions from foreign institutions regarding the implications of the restrictions above. We provide responses to those questions below.

Q1: May a foreign institution offer ineligible courses in a program as long as it does not permit Direct Loan recipients to take those courses?

A1: A program that contains ineligible courses is not a Title IV-eligible program. However, it is permissible for a foreign institution to offer two separate versions of a program, one of which does not permit students who are Direct Loan recipients to enroll in the ineligible courses for credit toward completion of the program. In that case, the version of the program that does not permit Direct Loan recipients to enroll in ineligible courses would not contain any ineligible courses, and would, therefore, be an eligible program if the program otherwise met the Title IV program eligibility requirements.

Please note that for the purposes of this guidance, a course is considered to be "for credit" if successful completion of the course yields credit toward completion of the program or otherwise fulfills a requirement for graduation from that program.

A foreign institution is ultimately responsible for ensuring that Direct Loan funds are not disbursed to students who enroll in any Title IV ineligible courses as a part of their program and should ensure that any students who may be applying for Direct Loan funds are aware of the restrictions on enrollment.

The institution must provide to students information on the academic program of the institution (§668.43(a)(5)), as well as the Title IV student eligibility requirements (§668.42(b)). If a foreign institution chooses to offer a Title IV-eligible version of a program for Direct Loan recipients, this information must make clear that a student will not be eligible for Direct Loan funds if the student enrolls in the ineligible version. The institution is required to make this information readily available to enrolled and prospective students through appropriate publications, mailings, or electronic media (§668.41(d)). In addition, a brief description of this information must be included in the notice that an institution must provide to enrolled students listing the categories of information required to be made available to them, together with an explanation of how to obtain the information (§668.41(c)).

Q2: May a foreign institution award credit to a Direct Loan recipient for ineligible courses the student completed at another institution?

A2: Yes. The Department does not restrict an institution's discretion to award credit for courses completed at other institutions, but Title IV funds may not be provided for the transferred credits. If a student independently completes a Title IV-ineligible course at an unaffiliated institution, those credits may be transferred into the student's program at the eligible foreign institution provided that the student does not receive Direct Loan funds for those credits.

However, this guidance does not apply if there is an arrangement between the institutions for transfer of credits. In that circumstance, the limitations of §668.5 apply, no matter how informal the arrangement may be.

Q3: What are the consequences to a foreign institution if a Direct Loan recipient takes an ineligible course as a part of his or her program at a foreign institution?

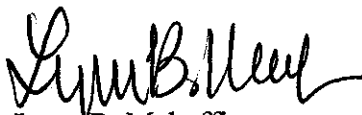
A3: A foreign institution is responsible for ensuring that Direct Loan funds are not disbursed to students who enroll in any ineligible courses as a part of their educational program. A program that permits Direct Loan recipients to take an ineligible course for credit, regardless of whether the course is optional or required, would be considered ineligible for Direct Loan funds.

Enforcement consequences range from fines and liability for cost of aid distributed to individual students, to termination of program or institutional eligibility and liability for cost of all funds awarded.

If a foreign institution is concerned that its policies and procedures are not sufficient to prevent Direct Loan recipients from taking ineligible courses at the institution or through a written arrangement with another ineligible institution, it should take immediate corrective action to improve its internal controls.

If you have any questions on the guidance provided in this letter, please contact Wendy Macias, Office of Postsecondary Education, by telephone at (202)502-7526, or by e-mail at Wendy.Macias@ed.gov.

Sincerely,



Lynn B. Mahaffie
Acting Assistant Secretary