

**PART 600--INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED**

**PART 600--INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED**

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Authority: 20 U.S.C. 1001, 1002, 1003, 1088, 1091, 1094, 1099b, and 1099(c), unless otherwise noted.

Note: Authority amended October 29, 1999, effective July 1, 2000.

**Subpart A--General**

**Sec. 600.1 Scope.**

This part establishes the rules and procedures that the Secretary uses to determine whether an educational institution qualifies in whole or in part as an eligible institution of higher education under the Higher Education Act of 1965, as amended (HEA). An eligible institution of higher education may apply to participate in programs authorized by the HEA (HEA programs).

(Authority: 20 U.S.C. 1088, 1094, 1099b, 1099c, and 1141)

**Sec. 600.2 Definitions.**

The following definitions apply to terms used in this part:

*Accredited:* The status of public recognition that a nationally recognized accrediting agency grants to an institution or educational program that meets the agency's established requirements.

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*Award year:* The period of time from July 1 of one year through June 30 of the following year.

*Branch Campus:* A location of an institution that is geographically apart and independent of the main campus of the institution. The Secretary considers a location of an institution to be independent of the main campus if the location--

(1) Is permanent in nature;

(2) Offers courses in educational programs leading to a degree, certificate, or other recognized educational credential;

(3) Has its own faculty and administrative or supervisory organization; and

(4) Has its own budgetary and hiring authority.

*Clock hour:* A period of time consisting of--

(1) A 50- to 60-minute class, lecture, or recitation in a 60-minute period;

(2) A 50- to 60-minute faculty-supervised laboratory, shop training, or internship in a 60-minute period; or

(3) Sixty minutes of preparation in a correspondence course.

*Correspondence course:* (1) A "home-study" course provided by an institution under which the institution provides instructional materials, including examinations on the materials, to students who are not physically attending classes at the institution. When students complete a portion of the instructional materials, the students take the examinations that relate to that portion of the materials, and return the examinations to the institution for grading.

(2) A home-study course that provides instruction in whole or in part through the use of video cassettes or video discs in an award year is a correspondence course unless the institution also delivers the instruction on the cassette or disc to students physically attending classes at the institution during the same award year.

(3) A course at an institution that may otherwise satisfy the definition of a "telecommunications course" is a correspondence course if the sum of telecommunications and other correspondence courses offered by that institution equals or exceeds 50 percent of the total courses offered at that institution.

(4) If a course is part correspondence and part residential training, the Secretary considers the course to be a correspondence course.

*Educational program:* A legally authorized postsecondary program of organized instruction or study that leads to an academic, professional, or vocational degree, or certificate, or other recognized educational credential. However, the Secretary does not consider that an institution provides an educational program if the institution does not provide instruction itself (including a course of independent study), but merely gives credit for one or more of the following: instruction provided by other institutions or schools; examinations provided by agencies or organizations; or other accomplishments such as "life experience."

*Eligible institution:* An institution that--

(1) Qualifies as--

(i) An institution of higher education, as defined in Sec. 600.4;

(ii) A proprietary institution of higher education, as defined in Sec. 600.5; or

(iii) A postsecondary vocational institution, as defined in Sec. 600.6; and

(2) Meets all the other applicable provisions of this part.

*Federal Family Education Loan (FFEL) Programs:* The loan programs (formerly called the Guaranteed Student Loan (GSL) programs) authorized by title IV-B of the HEA, including the Federal Stafford Loan, Federal PLUS, Federal Supplemental Loans for Students (Federal SLS), and Federal Consolidation Loan programs, in which lenders use their own funds to make loans to enable students or their parents to pay the costs of the students' attendance at eligible institutions. The Federal Stafford Loan, Federal PLUS, Federal SLS, and Federal Consolidation Loan programs are defined in 34 CFR part 668.

*Incarcerated student:* A student who is serving a criminal sentence in a Federal, State, or local penitentiary, prison, jail, reformatory, work farm, or other similar correctional institution. A student is not considered incarcerated if that student is in a half-way house or home detention or is sentenced to serve only weekends.

*Legally authorized:* The legal status granted to an institution through a charter, license, or other written document issued by the appropriate agency or official of the State in which the institution is physically located.

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*Nationally recognized accrediting agency:* An agency or association that the Secretary recognizes as a reliable authority to determine the quality of education or training offered by an institution or a program offered by an institution. The Secretary recognizes these agencies and associations under the provisions of 34 CFR part 602 and publishes a list of the recognized agencies in the **Federal Register**.

*Nonprofit institution:* An institution that--

(1) Is owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which benefits any private shareholder or individual;

(2) Is legally authorized to operate as a nonprofit organization by each State in which it is physically located; and

(3) Is determined by the U.S. Internal Revenue Service to be an organization to which contributions are tax-deductible in accordance with section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)).

*One-academic-year training program:* An educational program that is at least one academic year as defined under 34 CFR 668.2.

*Preaccredited:* A status that a nationally recognized accrediting agency, recognized by the Secretary to grant that status, has accorded an unaccredited public or private nonprofit institution that is progressing toward accreditation within a reasonable period of time.

*Recognized equivalent of a high school diploma:* The following are the equivalent of a high school diploma--

(1) A General Education Development Certificate (GED);

(2) A State certificate received by a student after the student has passed a State-authorized examination that the State recognizes as the equivalent of a high school diploma;

(3) An academic transcript of a student who has successfully completed at least a two-year program that is acceptable for full credit toward a bachelor's degree; or

(4) For a person who is seeking enrollment in an educational program that leads to at least an associate degree or its equivalent and who has not completed high school but who excelled academically in high school, documentation that the student excelled academically in high school and has met the formalized, written policies of

the institution for admitting such students.

*Recognized occupation:* An occupation that is--

(1) Listed in an "occupational division" of the latest edition of the Dictionary of Occupational Titles, published by the U.S. Department of Labor; or

(2) Determined by the Secretary in consultation with the Secretary of Labor to be a recognized occupation.

*Regular student:* A person who is enrolled or accepted for enrollment at an institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution.

*Secretary:* The Secretary of the Department of Education or an official or employee of the Department of Education acting for the Secretary under a delegation of authority.

*State:* A State of the Union, American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. The latter three are also known as the Freely Associated States.

*Telecommunications course:* A course offered in an award year principally through the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs. The term does not include a course that is delivered using video cassettes or disc recordings unless that course is delivered to students physically attending classes at an institution providing the course during the same award year. If the course does not qualify as a telecommunications course it is considered to be a correspondence course, as provided for in paragraph (c) of the definition of correspondence course in this section.

*Title IV, HEA program:* Any of the student financial assistance programs listed in 34 CFR 668.1(c).

(Authority: 20 U.S.C. 1071 et seq., 1078-2, 1088, 1099b, 1099c, and 1141 and 26 U.S.C. 501(c).)

Note: *Federal Family Education Loan (FFEL) Programs:* definition amended July 29, 1998, effective July 29, 1998. State amended October 29, 1999, effective July 1, 2000.

**Sec. 600.3 [Reserved]**

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**Sec. 600.4 Institution of higher education.**

(a) An institution of higher education is a public or private nonprofit educational institution that--

(1) Is in a State, or for purposes of the Federal Pell Grant, Federal Supplemental Educational Opportunity Grant, Federal Work-Study, and Federal TRIO programs may also be located in the Federated States of Micronesia or the Marshall Islands;

(2) Admits as regular students only persons who--

(i) Have a high school diploma;

(ii) Have the recognized equivalent of a high school diploma; or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is physically located;

(3) Is legally authorized to provide an educational program beyond secondary education in the State in which the institution is physically located;

(4) Provides an educational program--

(i) For which it awards an associate, baccalaureate, graduate, or professional degree;

(ii) That is at least a two-academic-year program acceptable for full credit toward a baccalaureate degree; or

(iii) That is at least a one-academic-year training program that leads to a certificate, degree, or other recognized educational credential and prepares students for gainful employment in a recognized occupation; and

(5) Is--

(i) Accredited or preaccredited; or

(ii) Approved by a State agency listed in the **Federal Register** in accordance with 34 CFR part 603, if the institution is a public postsecondary vocational educational institution that seeks to participate only in Federal student assistance programs.

(b) An institution is physically located in a State if it has a campus or other instructional site in that State.

(c) The Secretary does not recognize the accreditation or preaccreditation of an institution unless the institution agrees to submit any dispute involving the final

denial, withdrawal, or termination of accreditation to initial arbitration before initiating any other legal action.

(Authority: 20 U.S.C. 1094, 1099b, and 1141(a))

Note: (c) amended October 29, 1999, effective July 1, 2000.

**600.5 Proprietary institution of higher education.**

(a) A proprietary institution of higher education is an educational institution that--

(1) Is not a public or private nonprofit educational institution;

(2) Is in a State;

(3) Admits as regular students only persons who--

(i) Have a high school diploma;

(ii) Have the recognized equivalent of a high school diploma; or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is physically located;

(4) Is legally authorized to provide an educational program beyond secondary education in the State in which the institution is physically located;

(5) Provides an eligible program of training, as defined in 34 CFR 668.8, to prepare students for gainful employment in a recognized occupation;

(6) Is accredited;

(7) Has been in existence for at least two years; and

(8) Has no more than 90 percent of its revenues derived from title IV, HEA program funds, as determined under paragraph (d) of this section.

(b)(1) The Secretary considers an institution to have been in existence for two years only if--

(i) The institution has been legally authorized to provide, and has provided, a continuous educational program to prepare students for gainful employment in a recognized occupation during the 24 months preceding the date of its eligibility application; and

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(ii) The educational program that the institution provides on the date of its eligibility application is substantially the same in length and subject matter as the program that the institution provided during the 24 months preceding the date of its eligibility application.

(2)(i) The Secretary considers an institution to have provided a continuous educational program during the 24 months preceding the date of its eligibility application even if the institution did not provide that program during normal vacation periods, or periods when the institution temporarily closed due to a natural disaster that directly affected the institution or the institution's students.

(ii) The Secretary considers an institution to have satisfied the provisions of paragraph (b)(1)(ii) of this section if the institution substantially changed the subject matter of the educational program it provided during that 24-month period because of new technology or the requirements of other Federal agencies.

(3) In determining whether an applicant institution satisfies the requirement contained in paragraph (b)(1) of this section, the Secretary--

(i) Counts any period during which the applicant institution has been certified as a branch campus; and

(ii) Except as provided in paragraph (b)(3)(i) of this section, does not count any period during which the applicant institution was a part of another eligible proprietary institution of higher education, postsecondary vocational institution, or vocational school.

(c) An institution is physically located in a State if it has a campus or other instructional site in that State.

(d)(1) An institution satisfies the requirement contained in paragraph (a)(8) of this section by examining its revenues under the following formula for its latest complete fiscal year:

Title IV, HEA program funds the institution used to satisfy its students' tuition, fees, and other institutional charges to students  
The sum of revenues including title IV, HEA program funds generated by the institution from: tuition, fees, and other institutional charges for students enrolled in eligible programs as defined in 34 CFR 668.8; and activities conducted by the institution, to the extent not included in tuition, fees, and other institutional charges, that are necessary for the education or training of its students who are enrolled in those eligible programs.

(2) An institution must use the cash basis of accounting when calculating the amount of title IV, HEA program funds in the numerator and the total amount of revenue generated by the institution in the denominator of the fraction contained in paragraph (d)(1) of this section.

(3) Under the cash basis of accounting--

(i) In calculating the amount of revenue generated by the institution from institutional loans, the institution must include only the amount of loan repayments received by the institution during the fiscal year; and

(ii) In calculating the amount of revenue generated by the institution from institutional scholarships, the institution must include only the amount of funds it disbursed during the fiscal year from an established restricted account and only to the extent that the funds in that account represent designated funds from an outside source or income earned on those funds.

(e) With regard to the formula contained in paragraph(d)(1) of this section--

(1) The institution may not include as title IV, HEA program funds in the numerator nor as revenue generated by the institution in the denominator--

(i) The amount of funds it received under the Federal Work-Study (FWS) Program, unless the institution used those funds to pay a student's institutional charges in which case the FWS program funds used to pay those charges would be included in the numerator and denominator.

(ii) The amount of funds it received under the Leveraging Educational Assistance Partnership (LEAP) Program. (The LEAP Program was formerly called the State Student Incentive Grant or SSIG Program.);

(iii) The amount of institutional funds it used to match title IV, HEA program funds;

(iv) The amount of title IV, HEA program funds that must be refunded or returned under Sec. 668.22; or

(v) The amount charged for books, supplies, and equipment unless the institution includes that amount as tuition, fees, or other institutional charges.

(2) In determining the amount of title IV, HEA program funds received by the institution under the cash basis of accounting, except as provided in paragraph (e)(3) of this section, the institution must presume that any title IV, HEA program funds disbursed or delivered to or on behalf of a student will be used to pay the student's tuition,

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fees, or other institutional charges, regardless of whether the institution credits those funds to the student's account or pays those funds directly to the student, and therefore must include those funds in the numerator and denominator.

(3) In paragraph (e)(2) of this section, the institution may not presume that title IV, HEA program funds were used to pay tuition, fees, and other institutional charges to the extent that those charges were satisfied by--

(i) Grant funds provided by non-Federal public agencies, or private sources independent of the institution;

(ii) Funds provided under a contractual arrangement described in Sec. 600.7(d), or

(iii) Funds provided by State prepaid tuition plans.

(4) With regard to the denominator, revenue generated by the institution from activities it conducts, that are necessary for its students' education or training, includes only revenue from those activities that--

(i) Are conducted on campus or at a facility under the control of the institution;

(ii) Are performed under the supervision of a member of the institution's faculty; and

(iii) Are required to be performed by all students in a specific educational program at the institution.

(f) An institution must notify the Secretary within 90 days following the end of the fiscal year used in paragraph (d)(1) of this section if it fails to satisfy the requirement contained in paragraph (a)(8) of this section.

(g) If an institution loses its eligibility because it failed to satisfy the requirement contained in paragraph (a)(8) of this section, to regain its eligibility it must demonstrate compliance with all eligibility requirements for at least the fiscal year following the fiscal year used in paragraph (d)(1) of this section.

(h) The Secretary does not recognize the accreditation of an institution unless the institution agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration before initiating any other legal action.

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

(Approved by the Office of Management and Budget under control number 1840-0098)

Note: (e)(1), (e)(2), and (e)(3) amended June 22, 1994, effective July 1, 1994. (e) revised June 12, 1996, effective July 12, 1996. (e) removed and reserved November 29, 1996, effective July 1, 1997. (h) removed; (i) redesignated as (h); (e) added; and (a)(8), (b)(3)(i), (d), (f), (g), and redesignated (h) amended October 29, 1999, effective July 1, 2000.

**Sec. 600.6 Postsecondary vocational institution.**

(a) A postsecondary vocational institution is a public or private nonprofit educational institution that--

(1) Is in a State;

(2) Admits as regular students only persons who--

(i) Have a high school diploma;

(ii) Have the recognized equivalent of a high school diploma; or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is physically located;

(3) Is legally authorized to provide an educational program beyond secondary education in the State in which the institution is physically located;

(4) Provides an eligible program of training, as defined in 34 CFR 668.8, to prepare students for gainful employment in a recognized occupation;

(5) Is--

(i) Accredited or preaccredited; or

(ii) Approved by a State agency listed in the **Federal Register** in accordance with 34 CFR part 603, if the institution is a public postsecondary vocational educational institution that seeks to participate only in Federal assistance programs; and

(6) Has been in existence for at least two years.

(b)(1) The Secretary considers an institution to have been in existence for two years only if--

(i) The institution has been legally authorized to provide, and has provided, a continuous education or training program to prepare students for gainful employment in a recognized occupation during the 24 months preceding the date of its eligibility application; and

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(ii) The education or training program it provides on the date of its eligibility application is substantially the same in length and subject matter as the program it provided during the 24 months preceding the date of its eligibility application.

(2)(i) The Secretary considers an institution to have provided a continuous education or training program during the 24 months preceding the date of its eligibility application even if the institution did not provide that program during normal vacation periods, or periods when the institution temporarily closed due to a natural disaster that affected the institution or the institution's students.

(ii) The Secretary considers an institution to have satisfied the provisions of paragraph (b)(1)(ii) of this section if the institution substantially changed the subject matter of the educational program it provided during that 24-month period because of new technology or the requirements of other Federal agencies.

(3) In determining whether an applicant institution satisfies the requirement contained in paragraph (b)(1) of this section, the Secretary--

(i) Counts any period during which the applicant institution qualified as an eligible institution of higher education;

(ii) Counts any period during which the applicant institution was part of another eligible institution of higher education, provided that the applicant institution continues to be part of an eligible institution of higher education;

(iii) Counts any period during which the applicant institution has been certified as a branch campus; and

(iv) Except as provided in paragraph (b)(3)(iii) of this section, does not count any period during which the applicant institution was a part of another eligible proprietary institution of higher education or postsecondary vocational institution.

(c) An institution is physically located in a State or other instructional site if it has a campus or instructional site in that State.

(d) The Secretary does not recognize the accreditation or preaccreditation of an institution unless the institution agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration before initiating any other legal action.

(Authority: 20 U.S.C. 1088 and 1094(c)(3))

Note: (b)(3)(iii) and (d) amended October 29, 1999, effective July 1, 2000.

**Sec. 600.7 Conditions of institutional ineligibility.**

(a) General rule. For purposes of title IV of the HEA, an educational institution that otherwise satisfies the requirements contained in Secs. 600.4, 600.5, or 600.6 nevertheless does not qualify as an eligible institution under this part if--

(1) For its latest complete award year--

(i) More than 50 percent of the institution's courses were correspondence courses as calculated under paragraph (b) of this section;

(ii) Fifty percent or more of the institution's regular enrolled students were enrolled in correspondence courses;

(iii) More than twenty-five percent of the institution's regular enrolled students were incarcerated;

(iv) More than fifty percent of its regular enrolled students had neither a high school diploma nor the recognized equivalent of a high school diploma, and the institution does not provide a four-year or two-year educational program for which it awards a bachelor's degree or an associate degree, respectively;

(2) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management of policies of the institution--

(A) Files for relief in bankruptcy, or

(B) Has entered against it an order for relief in bankruptcy; or

(3) The institution, its owner, or its chief executive officer--

(i) Has pled guilty to, has pled nolo contendere to, or is found guilty of, a crime involving the acquisition, use, or expenditure of title IV, HEA program funds; or

(ii) Has been judicially determined to have committed fraud involving title IV, HEA program funds.

(b) *Special provisions regarding correspondence courses and students--*(1) *Treatment of telecommunications courses.* For purposes of paragraphs (a)(1) (i) and (ii) of this section, the Secretary considers a telecommunications course to be a correspondence course

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if the sum of telecommunications courses and other correspondence courses the institution provided during that award year equaled or exceeded 50 percent of the total number of courses it provided during that year.

(2) *Calculating the number of courses.* For purposes of paragraphs (a)(1) (i) and (ii) of this section--

(i) A correspondence course may be a complete educational program offered by correspondence, or one course provided by correspondence in an on-campus (residential) educational program;

(ii) A course must be considered as being offered once during an award year regardless of the number of times it is offered during that year; and

(iii) A course that is offered both on campus and by correspondence must be considered two courses for the purpose of determining the total number of courses the institution provided during an award year.

(3) *Exceptions.* (i) The provisions contained in paragraphs (a)(1) (i) and (ii) of this section do not apply to an institution that qualifies as a "technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left high school and who are available for study in preparation for entering the labor market" under section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act.

(ii) The Secretary waives the limitation contained in paragraph (a)(1)(ii) of this section for an institution that offers a 2-year associate-degree or a 4-year bachelor's-degree program if the students enrolled in the institution's correspondence courses receive no more than 5 percent of the title IV, HEA program funds received by students at that institution.

(c) *Special provisions regarding incarcerated students--*(1) *Exception.* The Secretary may waive the prohibition contained in paragraph (a)(1)(iii) of this section, upon the application of an institution, if the institution is a nonprofit institution that provides four-year or two-year educational programs for which it awards a bachelor's degree, an associate degree, or a postsecondary diploma.

(2) *Waiver for entire institution.* If the nonprofit institution that applies for a waiver consists solely of four-year or two-year educational programs for which it awards a bachelor's degree, an associate degree, or a postsecondary diploma, the Secretary waives the prohibition contained in paragraph (a)(1)(iii) of this section for the entire institution.

(3) *Other waivers.* If the nonprofit institution that applies for a waiver does not consist solely of four-year or two-year educational programs for which it awards a bachelor's degree, an associate degree, or a postsecondary diploma, the Secretary waives the prohibition contained in paragraph (a)(1)(iii) of this section--

(i) For the four-year and two-year programs for which it awards a bachelor's degree, an associate degree or a postsecondary diploma; and

(ii) For the other programs the institution provides, if the incarcerated regular students enrolled in those other programs have a completion rate of 50 percent or greater.

(d) *Special provision for a nonprofit institution if more than 50 percent of its enrollment consists of students who do not have a high school diploma or its equivalent.*

(1) Subject to the provisions contained in paragraphs (d)(2) and (d)(3) of this section, the Secretary waives the limitation contained in paragraph (a)(1)(iv) of this section for a nonprofit institution if that institution demonstrates to the Secretary's satisfaction that it exceeds that limitation because it serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a high school diploma or its recognized equivalent.

(2) *Number of critical students.* The Secretary grants a waiver under paragraph (d)(1) of this section only if no more than 40 percent of the institution's enrollment of regular students consists of students who--

(i) Do not have a high school diploma or its equivalent; and

(ii) Are not served through contracts described in paragraph (d)(3) of this section.

(3) *Contracts with Federal, State, or local government agencies.* For purposes of granting a waiver under paragraph (d)(1) of this section, the contracts referred to must be with Federal, State, or local government agencies for the purpose of providing job training to low-income individuals who are in need of that training. An example of such a contract is a job training contract under the Job Training Partnership Act (JPTA).

(e) *Special provisions.* (1) For purposes of paragraph (a)(1) of this section, when counting regular students, the institution shall--

(i) Count each regular student without regard to the full-time or part-time nature of the student's attendance (i.e., "head count" rather than "full-time equivalent");



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(ii) Count a regular student once regardless of the number of times the student enrolls during an award year; and

(iii) Determine the number of regular students who enrolled in the institution during the relevant award year by--

(A) Calculating the number of regular students who enrolled during that award year; and

(B) Excluding from the number of students in paragraph (e)(1)(iii)(A) of this section, the number of regular students who enrolled but subsequently withdrew or were expelled from the institution and were entitled to receive a 100-percent refund of their tuition and fees less any administrative fee that the institution is permitted to keep under its fair and equitable refund policy.

(2) For the purpose of calculating a completion rate under paragraph (c)(3)(ii) of this section, the institution shall--

(i) Determine the number of regular incarcerated students who enrolled in the other programs during the last completed award year;

(ii) Exclude from the number of regular incarcerated students determined in paragraph (e)(2)(i) of this section, the number of those students who enrolled but subsequently withdrew or were expelled from the institution and were entitled to receive a 100 percent refund of their tuition and fees, less any administrative fee the institution is permitted to keep under the institution's fair and equitable refund policy;

(iii) Exclude from the total obtained in paragraph (e)(2)(ii) of this section, the number of those regular incarcerated students who remained enrolled in the programs at the end of the applicable award year;

(iv) From the total obtained in paragraph (e)(2)(iii) of this section, determine the number of regular incarcerated students who received a degree, certificate, or other recognized educational credential awarded for successfully completing the program during the applicable award year; and

(v) Divide the total obtained in paragraph (e)(2)(iv) of this section by the total obtained in paragraph (e)(2)(iii) of this section and multiply by 100.

(f)(1) If the Secretary grants a waiver to an institution under this section, the waiver extends indefinitely provided that the institution satisfies the waiver requirements in each award year.

(2) If an institution fails to satisfy the waiver requirements for an award year, the institution becomes ineligible on June 30 of that award year.

(g)(1) For purposes of paragraph (a)(1) of this section, and any applicable waiver or exception under this section, the institution shall substantiate the required calculations by having the certified public accountant who prepares its audited financial statement under 34 CFR 668.15 or its title IV, HEA program compliance audit under 34 CFR 668.23 report on the accuracy of those determinations.

(2) The certified public accountant's report must be based on performing an "attestation engagement" in accordance with the American Institute of Certified Public Accountants (AICPA's) Statement on Standards for Attestation Engagements. The certified public accountant shall include that attestation report with or as part of the audit report referenced in paragraph (g)(1) of this section.

(3) The certified public accountant's attestation report must indicate whether the institution's determinations regarding paragraph (a)(1) of this section and any relevant waiver or exception under paragraphs (b), (c), and (d) of this section are accurate; i.e., fairly presented in all material respects.

(h) *Notice to the Secretary.* An institution shall notify the Secretary--

(1) By July 31 following the end of an award year if it falls within one of the prohibitions contained in paragraph (a)(1) of this section, or fails to continue to satisfy a waiver or exception granted under this section; or

(2) Within 10 days if it falls within one of the prohibitions contained in paragraphs (a)(2) or (a)(3) of this section.

(i) *Regaining eligibility.* (1) If an institution loses its eligibility because of one of the prohibitions contained in paragraph (a)(1) of this section, to regain its eligibility, it must demonstrate--

(i) Compliance with all eligibility requirements;

(ii) That it did not fall within any of the prohibitions contained in paragraph (a)(1) of this section for at least one award year; and

(iii) That it changed its administrative policies and practices to ensure that it will not fall within any of the prohibitions contained in paragraph (a)(1) of this section.

(2) If an institution loses its eligibility because of one of the prohibitions contained in paragraphs (a)(2) and

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(a)(3) of this section, this loss is permanent. The institution's eligibility cannot be reinstated.

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

(Approved by the Office of Management and Budget under control number 1840-0098)

Note: (e)(2), (g)(1), (g)(2), and (g)(3) amended June 22, 1994, effective July 1, 1994. (a) introductory text, (a)(1) introductory text, (a)(1)(iv), and (a)(2) amended June 30, 1995, effective July 31, 1995. (a)(1)(iii), (a)(1)(iv), and (c) amended October 29, 1999, effective July 1, 2000.

**Sec. 600.8 Treatment of a branch campus.**

A branch campus of an eligible institution must be in existence for at least two years as a branch campus after the branch is certified as a branch campus before seeking to be designated as a main campus or a free-standing institution.

(Authority: 20 U.S.C. 1099c)

Note: Section amended October 29, 1999, effective July 1, 2000.

**Sec. 600.9 Written agreement between an eligible institution and another institution or organization.**

(a) Without losing its eligibility under this part, an eligible institution may enter into a written agreement with another eligible institution under which the latter institution provides all or a part of the educational program of students enrolled in the former institution if the former institution gives credit to students enrolled in that contracted program on the same basis as if it provided that program itself.

(b) Without losing its eligibility under this part, an eligible institution may enter into a written agreement with an institution or organization that is not an eligible institution under which the latter institution or organization provides a part of the educational program of students enrolled in the eligible institution if--

(1) The eligible institution gives credit to students enrolled in that contracted program on the same basis as if it provided that program itself;

(2) The ineligible institution or organization--

(i) Has not been terminated from participation in the title-IV, HEA programs; or

(ii) Has not withdrawn from participation in the title IV, HEA programs under a termination, show-cause, suspension, or similar type proceeding initiated by the institution's State licensing agency, accrediting agency, guarantor, or by the Secretary; and

(3) The ineligible institution or organization provides--

(i) Not more than 25 percent of the educational program of a student enrolled in the eligible institution; or

(ii) More than 25 percent but not more than 50 percent of the educational program of a student enrolled in the eligible institution so long as--

(A) The eligible institution and the ineligible institution or organization are not owned or controlled by the same individual, partnership, or corporation; and

(B) The eligible institution's accrediting agency or, if the eligible institution is a public postsecondary vocational educational institution, the relevant State agency listed in the **Federal Register** in accordance with 34 CFR part 603, specifically determines that the institution's agreement meets the agency's standards for the contracting out of educational services.

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

Note: (b)(2)(ii) amended July 29, 1998, effective July 29, 1998.

**Sec. 600.10 Date, extent, duration, and consequence of eligibility.**

(a) *Date of eligibility.* (1) If the Secretary determines that an applicant institution satisfies all the statutory and regulatory eligibility requirements, the Secretary considers the institution to be an eligible institution as of the date--

(i) The Secretary signs the institution's program participation agreement described in 34 CFR part 668, subpart B, for purposes of participating in any title IV, HEA program; and

(ii) The Secretary receives all the information necessary to make that determination for purposes other than participating in any title IV, HEA program.

(2) For purposes of participating in a title IV, HEA program, if an eligible institution seeks eligibility for a location or educational program not previously designated eligible, and the Secretary determines that the location or educational program satisfies all the statutory and

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regulatory eligibility requirements, the Secretary considers the location or program to be eligible to participate in that title IV, HEA program as of the date the Secretary certifies that location or program to so participate.

(b) *Extent of eligibility.* (1) If the Secretary determines that the entire applicant institution, including all its locations and all its educational programs, satisfies the applicable requirements of this part, the Secretary extends eligibility to all educational programs and locations identified on the institution's application for eligibility.

(2) If the Secretary determines that only certain educational programs or certain locations of an applicant institution satisfy the applicable requirements of this part, the Secretary extends eligibility only to those educational programs and locations that meet those requirements and identifies the eligible educational programs and locations in the eligibility notice sent to the institution under Sec. 600.21.

(3) Eligibility does not extend to any location that an institution establishes after it receives its eligibility designation if the institution provides at least 50 percent of an educational program at that location, unless--

(i) The institution has notified the Secretary of that location in accordance with Sec. 600.30(a)(3); and

(ii) The Secretary does not require the institution to submit an eligibility application for that location under Sec. 600.21(c).

(c) *Subsequent additions of educational programs.* (1) Except as provided in paragraph (c)(2) of this section, if an eligible institution adds an educational program after it has been designated as an eligible institution by the Secretary, the institution must apply to the Secretary to have that additional program designated as an eligible program of that institution.

(2) An eligible institution that adds an educational program after it has been designated as an eligible institution by the Secretary does not have to apply to the Secretary to have that additional program designated as an eligible program of that institution if the additional program--

(i) Leads to an associate, baccalaureate, professional, or graduate degree; or

(ii)(A) Prepares students for gainful employment in the same or related recognized occupation as an educational program that has previously been designated as an eligible program at that institution by the Secretary; and

(B) Is at least 8 semester hours, 12 quarter hours, or 600 clock hours.

(3) If an institution incorrectly determines under paragraph (c)(2) of this section that an educational program satisfies the applicable statutory and regulatory eligibility provisions without applying to the Secretary for approval, the institution is liable to repay to the Secretary all HEA program funds received by the institution for that educational program, and all the title IV, HEA program funds received by or on behalf of students who were enrolled in that educational program.

(d) *Duration of eligibility.* (1) If an institution participates in the title IV, HEA programs, the Secretary's designation of the institution as an eligible institution under the title IV, HEA programs expires when the institution's program participation agreement, as described in 34 CFR part 668, subpart B, expires.

(2) If an institution participates in an HEA program other than a title IV, HEA program, the Secretary's designation of the institution as an eligible institution, for purposes of that non-title IV, HEA program, does not expire as long as the institution continues to satisfy the statutory and regulatory requirements governing its eligibility.

(e) *Consequence of eligibility.* (1) If, as a part of its institutional eligibility application, an institution indicates that it wishes to participate in a title IV, HEA program and the Secretary determines that the institution satisfies the applicable statutory and regulatory requirements governing institutional eligibility, the Secretary will determine whether the institution satisfies the standards of administrative capability and financial responsibility contained in 34 CFR part 668, subpart B.

(2) If, as part of its institutional eligibility application, an institution indicates that it does not wish to participate in any title IV, HEA program and the Secretary determines that the institution satisfies the applicable statutory and regulatory requirements governing institutional eligibility, the institution is eligible to apply to participate in any HEA program listed by the Secretary in the eligibility notice it receives under Sec. 600.21. However, the institution is not eligible to participate in those programs, or receive funds under those programs, merely by virtue of its designation as an eligible institution under this part.

(Authority: 20 U.S.C. 1088 and 1141)

(Approved by the Office of Management and Budget under control number 1840-0098)

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**Sec. 600.11 Special rules regarding institutional accreditation or preaccreditation.**

(a) *Change of accrediting agencies.* For purposes of Secs. 600.4(a)(5)(i), 600.5(a)(6), and 600.6(a)(5)(i), the Secretary does not recognize the accreditation or preaccreditation of an otherwise eligible institution if that institution is in the process of changing its accrediting agency, unless the institution provides to the Secretary--

(1) All materials related to its prior accreditation or preaccreditation; and

(2) Materials demonstrating reasonable cause for changing its accrediting agency.

(b) *Multiple accreditation.* The Secretary does not recognize the accreditation or preaccreditation of an otherwise eligible institution if that institution is accredited or preaccredited as an institution by more than one accrediting agency, unless the institution--

(1) Provides to each such accrediting agency and the Secretary the reasons for that multiple accreditation or preaccreditation;

(2) Demonstrates to the Secretary reasonable cause for that multiple accreditation or preaccreditation; and

(3) Designates to the Secretary which agency's accreditation or preaccreditation the institution uses to establish its eligibility under this part.

(c) *Loss of accreditation or preaccreditation.* (1) An institution may not be considered eligible for 24 months after it has had its accreditation or preaccreditation withdrawn, revoked, or otherwise terminated for cause, unless the accrediting agency that took that action rescinds that action.

(2) An institution may not be considered eligible for 24 months after it has withdrawn voluntarily from its accreditation or preaccreditation status under a show-cause or suspension order issued by an accrediting agency, unless that agency rescinds its order.

(d) *Religious exception.* (1) If an otherwise eligible institution loses its accreditation or preaccreditation, the Secretary considers the institution to be accredited or preaccredited for purposes of complying with the provisions of Secs. 600.4, 600.5, and 600.6 if the Secretary determines that its loss of accreditation or preaccreditation--

(i) Is related to the religious mission or affiliation of the institution; and

(ii) Is not related to its failure to satisfy the accrediting agency's standards.

(2) If the Secretary considers an unaccredited institution to be accredited or preaccredited under the provisions of paragraph (d)(1) of this section, the Secretary will consider that unaccredited institution to be accredited or preaccredited for a period sufficient to allow the institution to obtain alternative accreditation or preaccreditation, except that period may not exceed 18 months.

(Authority: 20 U.S.C. 1099b)

**Subpart B--Procedures for Establishing Eligibility**

**Sec. 600.20 Application procedures.**

(a) An institution that wishes to establish its eligibility to apply to participate in any program authorized by the HEA must first apply to the Secretary for a determination that it qualifies as an eligible institution.

(b) A previously designated eligible institution must apply to the Secretary if--

(1) The Secretary requests the institution to file an application so as to determine whether it continues to meet the requirements of this part; or

(2) The institution satisfies one of the conditions contained in paragraph (c) of this section.

(c) An institution must apply if it wishes to--

(1) Continue to be eligible beyond the scheduled expiration of its current eligibility designation;

(2) Include in its eligibility designation a branch campus that is not currently included in that designation;

(3) Include in its eligibility designation a location that is not currently included in that designation, if--

(i) The institution offers 100 percent of an educational program at that location; or

(ii) The institution offers at least 50 percent of an educational program at that location, and the Secretary requires the institution to apply for eligibility under Sec. 600.21(c)(2);

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(4) Continue to be eligible following a change in its name, location, or address;

(5) Continue to include in its eligibility designation a branch campus that has changed its name, location, or address;

(6) Continue to include in its eligibility designation another location that has changed its name, location, or address, if--

(i) That location offers 100 percent of an educational program; or

(ii) The Secretary requires the institution to apply for eligibility under Sec. 600.21(c)(2); or

(7) Reestablish eligibility following a change in ownership that results in a change in control according to the provisions of Sec. 600.31.

(8) Continue to be eligible following a change in ownership that results in a change in control according to the provisions of Sec. 668.12(f).

(d) An institution applying for designation as an eligible institution shall--

(1) Apply on the form prescribed by the Secretary; and

(2) Provide all the information and documentation requested by the Secretary to make a determination of its eligibility.

(Authority: 20 U.S.C. 1088 and 1141)

(Approved by the Office of Management and Budget under control number 1840-0098)

Note: (c)(8) added October 29, 1999, effective July 1, 2000.

**Sec. 600.21 Eligibility notification.**

(a) The Secretary notifies an institution in writing--

(1) Whether the applicant institution qualifies in whole or in part as an eligible institution under the appropriate provisions in Secs. 600.4, 600.5, 600.6 and 600.7;

(2) Whether the institution is certified to participate in the title IV, HEA programs if the institution

applied to participate in those programs; and

(3) Of the title IV, HEA programs in which it is eligible to participate, and the title IV, HEA programs for which it is eligible to apply to participate.

(b) If only a portion of the applicant institution qualifies as an eligible institution, the Secretary specifies in the notice the locations or educational programs that qualify as the eligible institution.

(c) If the Secretary receives a notice from an institution as a result of Sec. 600.30(a)(3), the Secretary--

(1) Notifies the institution that the location is an eligible location of that institution, identifies the HEA programs in which the institution may participate without further action, and indicates that the extension of eligibility and participation is effective on the date that the Secretary received the institution's notice; or

(2) Notifies the institution that the institution must apply for eligibility of that location under Sec. 600.20.

(d) The Secretary makes the determination in paragraph (c) of this section by evaluating the institution's ability to provide adequately education or training at the location. In making that evaluation, the Secretary uses such factors as--

(1) The percentage of an educational program offered at the location; and

(2) The financial and administrative capability of the institution.

(Authority: 20 U.S.C. 1088, 1099c, and 1141)

**Subpart C--Maintaining Eligibility**

**Sec. 600.30 Institutional notification requirements.**

(a) Except as provided in paragraph (b) of this section, an eligible institution shall notify the Secretary in writing, at an address specified by the Secretary in a notice published in the **Federal Register**, no later than 10 days after the change occurs, of any change in the following information provided in the institution's eligibility application:

(1) Its name.

(2) Its address.

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(3) The name, number, and address of locations other than the main campus at which it offers at least 50 percent of an educational program and the percentages of the educational programs that it provides at each location.

(4) The way it measures program length, e.g. clock hours or credit hours.

(5) Its ownership, if that ownership change results in a change in control of the institution.

(6) Its status as a proprietary, nonprofit, or public institution.

(7) A person's ability to affect substantially the actions of the institution, if that person did not previously have this ability. The Secretary generally considers a person to have this ability if the person--

(i) Directly or indirectly holds at least a 25 percent ownership interest in the institution;

(ii) Holds, together with another member or members of his or her family, at least a 25 percent ownership interest in the institution;

(iii) Represents, either alone or together with other persons, under a voting trust, power of attorney, proxy, or similar agreement one or more persons who hold either individually or in combination with the other persons represented or the person representing them, at least a 25 percent ownership in the institution; or

(iv) Is a member of the board of directors, a general partner, the chief executive officer, or other executive officer of--

(A) The institution; or

(B) An entity that holds at least a 25 percent ownership interest in the institution.

(b) An eligible institution that is owned by a publicly-traded corporation shall notify the Secretary in writing, at an address specified by the Secretary in a notice published in the **Federal Register**, of any change in the information that is described in paragraphs (a) (5) through (7) of this section at the same time that the institution notifies the institution's accrediting agency, but no later than 10 days after the corporation learns of the change.

(c) The Secretary notifies the institution in writing if any reported change affects the institution's eligibility, and the effective date of that change.

(d) The institution's failure to inform the Secretary of the information described in paragraph (a) of this section within the time period stated in that paragraph may result in adverse action against it, including its loss of eligibility.

(e)(1) For the purposes of this section, an *ownership interest* is a share of the legal or beneficial ownership or control of, or a right to share in the proceeds of the operation of, an institution or institution's parent corporation.

(2) The term *ownership interest* includes, but is not limited to--

(i) An interest as tenant in common, joint tenant, or tenant by the entirety;

(ii) A partnership; and

(iii) An interest in a trust.

(3) The term *ownership interest* does not include any share of the ownership or control of, or any right to share in the proceeds of the operation of--

(i) A mutual fund that is regularly and publicly traded;

(ii) An institutional investor; or

(iii) A profit-sharing plan, provided that all employees are covered by the plan.

(f) For the purposes of this section, the Secretary considers a member of a person's family to be a parent, sibling, spouse or child; spouse's parent or sibling; or sibling's or child's spouse.

(Authority: 20 U.S.C. 1088 and 1141)

(Approved by the Office of Management and Budget under control number 1840-0098)

Note: (a)(7) introductory text amended June 30, 1995, effective July 31, 1995.

**Sec. 600.31 Change in ownership resulting in a change of control.**

(a) *General.* (1) Except as provided in Sec. 668.12(f), an institution that undergoes a change in ownership that results in a change of control ceases to qualify as an eligible institution upon the change in ownership and control. A change in ownership that results in a change in control includes any change by which a person who has or thereby acquires an ownership interest

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in the entity that owns this institution or the parent corporation of that entity, acquires or loses the ability to control the institution.

(2) In order to reestablish eligibility and to resume participation in the title IV, HEA programs, the institution must demonstrate to the Secretary that after the change in ownership and control--

(i) The institution satisfies all the applicable requirements contained in Secs. 600.4, 600.5, and 600.6, except that if the institution is a proprietary institution of higher education or postsecondary vocational institution, it need not have been in existence for two years before seeking eligibility; and

(ii) The institution qualifies to be certified to participate under 34 CFR part 668, subpart B.

(b) *Definitions.* The following definitions apply to terms used in this section:

*Closely-held corporation.* Closely-held corporation (including the term "close corporation") means--

(1) A corporation that qualifies under the law of the State of its incorporation as a closely-held corporation; or

(2) If the State of incorporation has no definition of closely-held corporation, a corporation the stock of which--

(i) Is held by no more than 30 persons; and

(ii) Has not been and is not planned to be publicly offered.

*Control.* Control (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

*Ownership.* Ownership or ownership interest means a legal or beneficial interest in an entity, or a right to share in the profits derived from the operation of an entity. The term does not include the interests of a mutual fund that is regularly and publicly traded, of an institutional investor, or of a profit-sharing plan in which all employees of an entity may participate.

*Parent.* The parent or parent corporation of a specified corporation is the corporation or partnership that controls the specified corporation directly or indirectly through one or more intermediaries.

*Person.* Person includes a legal person (corporation or partnership) or an individual.

*Wholly-owned subsidiary.* A wholly-owned subsidiary is one substantially all of whose outstanding voting securities are owned by its parent together with the parent's other wholly-owned subsidiaries.

(c) *Standards for identifying changes in ownership and control--*(1) *Closely-held corporation.* A change in ownership and control occurs when--

(i) A person acquires more than 50 percent of the total outstanding voting stock of the corporation;

(ii) A person who holds an ownership interest in the corporation acquires control of more than 50 percent of the outstanding voting stock of the corporation; or

(iii) A person who holds or controls 50 percent or more of the total outstanding stock of the corporation ceases to hold or control that proportion of the stock of the corporation.

(2) *Publicly-traded corporation required to be registered with the Securities and Exchange Commission (SEC).* A change in ownership and control occurs when a change of control of the corporation takes place that gives rise to the obligation to file a Form 8K with the SEC notifying that agency of the change in control.

(3) *Other corporations.* A change in ownership and control of a corporation that is neither closely-held nor required to be registered with the SEC occurs when--

(i) A person who has or acquires an ownership interest acquires both control of at least 25 percent of the total outstanding voting stock of the corporation and control of the corporation;

(ii) A person who holds both ownership or control of at least 25 percent of the total outstanding voting stock of the corporation and control of the corporation, ceases to own or control that proportion of the stock of the corporation, or to control the corporation; or

(iii) For a membership corporation, a person who is or becomes a member acquires or loses control of 25 percent of the voting interests of the corporation and control of the corporation.

(4) *Partnership or sole proprietorship.* A change in ownership and control occurs when a person who has or acquires an ownership interest acquires or loses control as described in this section.

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(5) *Parent corporation.* An institution that is a wholly-owned subsidiary changes ownership and control when the parent corporation changes ownership and control as described in this section.

(6) *Nonprofit corporation or association.* An institution that is owned by a nonprofit corporation or association changes ownership and control when a change specifically described in this paragraph (c) takes place.

(7) *Public institution.* Notwithstanding paragraph (d) of this section, an institution owned and operated by a governmental entity changes ownership and control only when the ownership of the institution is transferred to a different governmental entity or to another person.

(d) *Covered transactions.* For the purposes of this section, a change in ownership of an institution that results in a change of control may include, but is not limited to--

- (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 conversion of the institution from a for-profit to a nonprofit institution.

(e) *Excluded transactions.* A change in ownership and control otherwise subject to this section does not include a transfer of ownership and control upon the retirement or death of the owner, to--

- (1) A member of the owner's family, as described in Sec. 600.30(f);
- (2) A person with an ownership interest in the institution who has been involved in management of the institution for at least two years preceding the transfer.

(Authority: 20 U.S.C. 1099c)

(Approved by the Office of Management and Budget under control number 1840-0098)

Note: (a)(1), (a)(2) introductory text, (c)(1), (c)(2), (c)(3) introductory text, (c)(4), and (e) introductory text amended June 30, 1995, effective July 31, 1995. (a)(1) amended and (f) removed October 29, 1999, effective July 1, 2000.

**Sec. 600.32 Eligibility of additional locations.**

(a) Except as provided in paragraphs (b) and (c) of this section, to qualify as an eligible location, an additional location of an eligible institution must satisfy the applicable requirements of this section and Secs. 600.4, 600.5, 600.6, 600.8, and 600.10.

(b) To qualify as an eligible location, an additional location is not required to satisfy the two-year requirement of Sec. 600.5(a)(7) or 600.6(a)(6), unless--

(1) The location was a facility of another institution that has closed or ceased to provide educational programs for a reason other than a normal vacation period or a natural disaster that directly affects the institution or the institution's students;

(2) The applicant institution acquired, either directly from the institution that closed or ceased to provide educational programs, or through an intermediary, the assets at the location; and

(3) The institution from which the applicant institution acquired the assets of the location--

(i) Owes a liability for a violation of an HEA program requirement; and

(ii) Is not making payments in accordance with an agreement to repay that liability.

(c) Notwithstanding paragraph (b) of this section, an additional location is not required to satisfy the two-year requirement of Sec. 600.5(a)(7) or Sec. 600.6(a)(6) if the applicant institution agrees--

(1) To be liable for all improperly expended or unspent title IV, HEA program funds received by the institution that has closed or ceased to provide educational programs;

(2) To be liable for all unpaid refunds owed to students who received title IV, HEA program funds; and

(3) To abide by the policy of the institution that has closed or ceased to provide educational programs regarding refunds of institutional charges to students in effect before the date of the acquisition of the assets of



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the additional location for the students who were enrolled before that date.

(d) For purposes of this section, an "additional location" is a location of an institution that was not designated as an eligible location in the eligibility notification provided to an institution under Sec. 600.21.

(Authority: 20 U.S.C. 1088 and 1141)

**Subpart D--Loss of Eligibility**

**Sec. 600.40 Loss of eligibility.**

(a)(1) Except as provided in paragraphs (a)(2) and (3) of this section, an institution, or a location or educational program of an institution, loses its eligibility on the date that--

(i) The institution, location, or educational program fails to meet any of the eligibility requirements of this part;

(ii) The institution or location permanently closes;

(iii) The institution or location ceases to provide educational programs for a reason other than a normal vacation period or a natural disaster that 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 Sec. 600.5(a)(8), as evidenced by the determination under provisions contained in Sec. 600.5(d), it loses its eligibility on the last day of the fiscal year used in Sec. 600.5(d), except that if an institution's latest fiscal year was described in Sec. 600.7(h)(1), it loses its eligibility as of June 30, 1994.

(3) If an institution loses its eligibility under the provisions of Sec. 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 Sec. 600.5(a)(8) or Sec. 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)

Note: (a)(1)(iv) amended July 29, 1998, effective July 29, 1998.

**Sec. 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--

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(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 Sec. 600.5(a)(8) or Sec. 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 commitment, 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:

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(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.

(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)

Note: (a)(1)(ii) amended and (e)(3) removed July 29, 1998, effective July 29, 1998.

**Subpart E--Eligibility of Foreign Institutions To Apply To Participate In the Federal Family Education Loan (FFEL) Programs**

**Sec. 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 regulations for the FFEL programs, 34 CFR part 682, subpart F.

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

**Sec. 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)

**Sec. 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--

(1) Apply on the form prescribed by the Secretary; and

(2) Provide all the information and documentation requested by the Secretary to make a determination of that eligibility.

(b) If a foreign institution fails to provide, release, or authorize release to the Secretary of information that is required in this subpart E, the institution is ineligible to apply to participate in the FFEL programs.

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

(Approved by the Office of Management and Budget under control number 1840-0673)

**Sec. 600.54 Criteria for determining whether a foreign institution is eligible to apply to participate in the FFEL programs.**

The Secretary considers a foreign institution to be comparable to an eligible institution of higher education in the United States and eligible to apply to participate in the FFEL programs if the foreign Institution is a public or private nonprofit educational institution that--

(a) Admits as regular students only persons who--

(1) Have a secondary school completion credential; or

(2) Have the recognized equivalent of a secondary school completion credential;

(b) Is legally authorized by an appropriate authority to provide an eligible educational program beyond the secondary school level in the country in which the institution is located; and

(c) Provides an eligible education program--

(1) For which the institution is legally authorized to award a degree that is equivalent to an associate, baccalaureate, graduate, or professional degree awarded in the United States;

(2) That is at least a two-academic-year program acceptable for full credit toward the equivalent of a baccalaureate degree awarded in the United States; or

(3) That is equivalent to at least a one-academic-year training program in the United States that leads to a certificate, degree, or other recognized educational credential and prepares students for gainful employment in a recognized occupation.

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

**Sec. 600.55 Additional criteria for determining whether a foreign graduate medical school is eligible to apply to participate in the FFEL programs.**

(a) The Secretary considers a foreign medical school to be eligible to apply to participate in the FFEL programs if, in addition to satisfying the criteria in Sec. 600.54 (except the criterion that the institution be public or

private nonprofit), the school satisfies all of the following criteria:

(1) The school provides, and in the normal course requires its students to complete, a program of clinical and classroom medical instruction of not less than 32 months in length, that is supervised closely by members of the school's faculty and that is provided either--

(i) Outside the United States, in facilities adequately equipped and staffed to afford students comprehensive clinical and classroom medical instruction; or

(ii) In the United States, through a training program for foreign medical students that has been approved by all medical licensing boards and evaluating bodies whose views are considered relevant by the Secretary.

(2) The school has graduated classes during each of the two twelve-month periods immediately preceding the date the Secretary receives the school's request for an eligibility determination.

(3) The school employs for the program described in paragraph (a)(1) of this section only those faculty members whose academic credentials are the equivalent of credentials required of faculty members teaching the same or similar courses at medical schools in the United States.

(4)(i) The school has been approved by an accrediting body--

(A) That is legally authorized to evaluate the quality of graduate medical school educational programs and facilities in the country where the school is located; and

(B) Whose standards of accreditation of graduate medical schools--

(1) Have been evaluated by the advisory panel of medical experts established by the Secretary; and

(2) Have been determined to be comparable to standards of accreditation applied to medical schools in the United States; or

(ii) The school is a public or private nonprofit educational institution that satisfies the requirements in Sec. 4(a)(5)(i).

(5)(i)(A) During the academic year preceding the year for which any of the school's students seeks an FFEL program loan, at least 60 percent of those enrolled as full-

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time regular students in the school and at least 60 percent of the school's most recent graduating class were persons who did not meet the citizenship and residency criteria contained in section 484(a)(5) of the HEA, 20 U.S.C. 1091(a)(5); and

(B) At least 60 percent of the school's students and graduates who took any step of the examinations administered by the Educational Commission for Foreign Medical Graduates (ECFMG) (including the ECFMG English test) in the year preceding the year for which any of the school's students seeks an FFEL program loan received passing scores on the exams; or

(ii) The school's clinical training program was approved by a State as of January 1, 1992, and is currently approved by that State.

(b) In performing the calculation required in paragraph (a)(5)(i)(B) of this section, a foreign graduate medical school shall count as a graduate each person who graduated from the school during the three years preceding the year for which the calculation is performed.

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

Note: (a) amended June 30, 1994, effective July 1, 1994.  
(a)(5)(i)(A) amended July 29, 1998, effective July 29, 1998.  
(a)(5)(i)(A) amended October 29, 1999, effective July 1, 2000.

**Sec. 600.56 Additional criteria for determining whether a foreign veterinary school is eligible to apply to participate in the FFEL programs.**

(a) The Secretary considers a foreign veterinary school to be eligible to apply to participate in the FFEL programs if, in addition to satisfying the criteria in Sec. 600.54 (except the criterion that the institution be public or private nonprofit), the school satisfies all of the following criteria:

(1) The school provides, and in the normal course requires its students to complete, a program of clinical and classroom veterinary instruction that is supervised closely by members of the school's faculty, and that is provided either--

(i) Outside the United States, in facilities adequately equipped and staffed to afford students comprehensive clinical and classroom veterinary instruction; or

(ii) In the United States, through a training program for foreign veterinary students that has been approved by all veterinary licensing boards and evaluating bodies whose views are considered relevant by the Secretary.

(2) The school has graduated classes during each of the two twelve-month periods immediately preceding the date the Secretary receives the school's request for an eligibility determination.

(3) The school employs for the program described in paragraph (a)(1) of this section only those faculty members whose academic credentials are the equivalent of credentials required of faculty members teaching the same or similar courses at veterinary schools in the United States.

(4) Either--

(i) The veterinary school's clinical training program was approved by a State as of January 1, 1992, and is currently approved by that State; or

(ii) The veterinary school's students complete their clinical training at an approved veterinary school located in the United States.

(b) [Reserved]

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

Note: Section added October 29, 1999, effective July 1, 2000.

**Sec. 600.57 Duration of eligibility determination.**

(a) The eligibility of a foreign institution under this subpart expires four years after the date of the Secretary's determination that the institution is eligible to apply for participation, except that the Secretary may specify a shorter period of eligibility. In the case of a foreign graduate medical school, continued eligibility is dependent upon annual submission of the data and information required under Sec. 600.55(a)(5)(i), subject to the terms described in Sec. 600.53(b).

(b) A foreign institution that has been determined eligible loses its eligibility on the date that the institution no longer meets any of the criteria in the subpart E.

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(c) Notwithstanding the provisions of 34 CFR 668.26, if a foreign institution loses its eligibility under this subpart E, an otherwise eligible student, continuously enrolled at the institution before the loss of eligibility, may receive an FFEL program loan for attendance at that institution for the academic year succeeding the academic year in which the institution lost its eligibility, if the student actually received an FFEL program loan for attendance at the institution for a period during which the institution was eligible under subpart E.

(Authority: 20 U.S.C. 1082, 1088, 1099c)

Note: (c) amended June 30, 1994, effective July 1, 1994. Section number changed from 600.56 to 600.57 October 29, 1999, effective July 1, 2000.