

the Secretary agree to an extension or the Secretary initiates a limitation or termination proceeding against the entity under 34 CFR Part 668, subpart G, or Part 682, subpart G, as applicable, prior to the 60th day.

(3) If an institution, lender, or a third party servicer is suspended by ED or another Federal agency, the Secretary determines whether grounds exist for the initiation of an emergency action against the entity under 34 CFR Part 668, subpart G, or Part 682, subpart G, as applicable.

(c) An institution, lender, or third-party servicer that is debarred or suspended by another agency, or proposed for debarment under 48 CFR part 9, subpart 9.4 by another Federal agency, is debarred, terminated or suspended, as provided under this part, 34 CFR part 668, and 34 CFR part 682, as applicable, if that agency took this action under procedures that afforded the excluded party the following:

(1) Notice of the proposed action;

(2) An opportunity to submit and have considered evidence and argument in opposition to the proposed action;

(3) An opportunity to obtain a hearing on its objection—

(i) At which the agency bears the burden of persuasion, by a preponderance of the evidence;

(ii) Conducted by an impartial person who does not also exercise prosecutorial or investigative responsibilities with respect to that action;

(iii) At which the entity may, unless the hearing official determines that no genuine dispute of material fact exists, present testimony and secure the attendance of those agency witnesses with personal knowledge of material facts whose testimony the hearing official determines to be needed, in light of other available evidence and witnesses; and

(iv) Of which a transcribed record is available upon request; and

(4) A written decision stating findings of fact and conclusions of law on which the decision is rendered.

(d) The Title IV, HEA programs are those programs listed in 34 CFR 668.1(c).

(Authority: E.Os. 12549 and 12689; 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455, Pub. L. 103-355, 108 Stat. 3243 at 3327)

8. Section 85.220 is revised to read as follows:

§ 85.220 Continuation of covered transactions.

(a) Notwithstanding the debarment, suspension, proposed debarment under 48 CFR part 9, subpart 9.4, determination of ineligibility, or

voluntary exclusion of any person by an agency and except as provided in § 85.201, agencies and participants may continue covered transactions in existence at the time the person was debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, declared ineligible, or voluntarily excluded. A decision as to the type of termination action, if any, to be taken should be made only after thorough review to ensure the propriety of the proposed action.

(b) Agencies and participants shall not renew or extend covered transactions (other than no-cost time extensions) with any person who is debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, ineligible or voluntarily excluded, except as provided in § 85.215.

(c) An educational institution, lender, or servicer may continue a Title IV, HEA transaction after the effective date of a debarment as determined under § 85.201 only as provided in 34 CFR 668.26, 682.702, or 668.94, as applicable.

(Authority: E.Os. 12549 and 12689; 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455, Pub. L. 103-355, 108 Stat. 3243 at 3327)

9. Section 85.314 is amended by revising paragraph (d) and the authority citation to read as follows:

§ 85.314 Debarring official's decision.

* * * * *

(d) Notice of debarring official's decision.

(1) If the debarring official decides to impose debarment, the respondent shall be given prompt notice—

(i) Referring to the notice of proposed debarment;

(ii) Specifying the reasons for debarment;

(iii) Stating the period of debarment, including effective dates; and

(iv) Advising that the debarment is effective for covered transactions throughout the executive branch of the Federal Government unless an agency head or authorized designee makes the determination referred to in § 85.215.

(2) If the debarring official decides not to impose debarment, the respondent shall be given prompt notice of that decision. A decision not to impose debarment shall be without prejudice to a subsequent imposition of debarment by any other agency.

(Authority: E.Os. 12549 and 12689; 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455, Pub. L. 103-355, 108 Stat. 3243 at 3327)

10. Section 85.316 is revised to read as follows:

§ 85.316 Procedures for Title IV, HEA debarments.

(a) If the Secretary initiates a debarment action against an educational institution, lender or third-party servicer under E.O. 12549, the Secretary uses the following procedures in connection with the debarment to ensure that the debarment also precludes participation under Title IV of the Higher Education Act of 1965, as amended:

(1) The procedures in § 85.312, Notice of proposed debarment, and § 85.314(d), Notice of debarring official's decision.

(2) Instead of the procedures in § 85.313 and § 85.314(a)-(c), the procedures in 34 CFR part 668, subpart G, or 34 CFR part 682, subpart G, as applicable.

(b) On appeal from a decision debarring an educational institution, lender, or third-party servicer, the Secretary issues a final decision after all parties have filed their written materials with the Secretary.

(c) In a proceeding under this section, in addition to the findings and conclusions required by 34 CFR part 668, subpart G, or 682, subpart G, the debarring official, and, on appeal, the Secretary, determine whether there exist sufficient grounds for debarment as set forth in § 85.305.

(Authority: E.Os. 12549 and 12689; 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455, Pub. L. 103-355, 108 Stat. 3243 at 3327)

11. Section 85.414 is revised to read as follows:

§ 85.414 Procedures for Title IV, HEA suspensions under E.O. 12549.

(a) *Title IV E.O. 12549 suspensions.*

(1) If the Secretary initiates a suspension against an educational institution, lender or third-party servicer under E.O. 12549, the Secretary uses the following procedures in connection with the suspension to ensure that the suspension precludes participation under Title IV of the Higher Education Act of 1965, as amended:

(i) The procedures in § 85.411, Notice of suspension.

(ii) Instead of the procedures in §§ 85.412, 85.413 and 85.415, the procedures in 34 CFR part 668, subpart G, or 34 CFR part 682, subpart G, as applicable.

(2) In a proceeding under this section, in addition to the findings and conclusions required by 34 CFR part 668, subpart G, or 34 CFR part 682, subpart G, the suspending official, and, on appeal, the Secretary, determine whether there exist sufficient grounds for suspension as set forth in § 85.405.

(b) *Continued assistance under Title IV, HEA.* The institution, lender, or