

**DEPARTMENT OF EDUCATION****34 CFR Part 668****RIN 1840-AC17****Student Assistance General Provisions****AGENCY:** Department of Education.**ACTION:** Final Regulations.

**SUMMARY:** The Secretary amends the Student Assistance General Provisions (General Provisions) regulations. The General Provisions regulations govern elements common to all of the Federal Student Financial Aid Programs authorized by Title IV of the Higher Education Act of 1965, as amended (HEA) (hereafter Title IV Programs). These amendments modify the Secretary's Federal Family Education Loan (FFEL) Program default reduction initiative and implement default prevention measures in the William D. Ford Federal Direct Loan (Direct Loan) Program. These regulations also streamline the limitation, suspension, and termination (L, S, and T) actions against an institution and prevent an institution from evading the consequences of a high FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate.

**EFFECTIVE DATE:** These regulations take effect July 1, 1996. However, affected parties do not have to comply with the information collection requirements in § 668.17 until the Department of Education publishes in the Federal Register the control number assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control number notifies the public that OMB has approved these collection requirements under the Paperwork Reduction Act of 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Douglas Laine, Program Specialist, Direct Loan Policy Group, Policy Development Division, U.S. Department of Education, 600 Independence Avenue, SW, room 3045, Regional Office Building 3, Washington, DC 20202-5400, telephone: (202) 708-9406. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** On September 21, 1995, the Secretary published a Notice of Proposed Rulemaking (NPRM) for part 668 in the Federal Register (60 FR 49178). The NPRM included a discussion of the

major issues surrounding the proposed changes which will not be repeated here. The following list summarizes those issues and identifies the pages of the preamble to the NPRM on which a discussion of those changes can be found:

The Secretary proposed to define a measurement similar to the FFEL Program cohort default rate under the Direct Loan Program, a "cohort rate" for Direct Loans, and to establish institutional eligibility requirements, based on the repayment of Direct Loans by the institution's former students, that are similar to those in the FFEL Program (pages 49179-49181).

Further, the Secretary proposed that a Direct Loan institution with an excessive Direct Loan Program cohort rate or weighted average cohort rate be permitted to avoid a loss of participation by showing the existence of exceptional mitigating circumstances (pages 49182-49184).

The Secretary proposed to modify the cohort default rate appeal process and the exceptional mitigating circumstances under which an institution may appeal its statutory loss of eligibility to participate in the FFEL Program on the basis of its cohort default rate (page 49184).

Finally, the Secretary proposed to streamline the current L, S, and T procedures and to limit the grounds on which a hearing officer may decide when an L, S, and T action is unwarranted (pages 49182-49185).

The Secretary has combined in a separate new paragraph the provisions that were contained in § 668.17(d)(1)(iii) and (iv), (e) (5) through (11), and (f) (5) through (10). These paragraphs established an institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, and weighted average cohort rate, respectively, when an institution changes status during a fiscal year. A change of status occurs, for example, when an institution merges with another institution or a branch of an institution joins a free-standing institution. These provisions have been consolidated into a new paragraph (g).

**Substantive Changes to the NPRM**

The following discussion reflects substantive changes made to the NPRM in the final regulations. The provisions are discussed in the order in which they appear in the proposed rules.

**Section 668.17 Default Reduction and Prevention Measures****Participation Rate Index Formula**

A change has been made to the formula used to determine the

percentage of an institution's students who borrow under the FFEL or Direct Loan programs for calculating the participation rate index under § 668.17(c)(1)(ii)(A). The proposed rules provided that an institution would base the percentage of its students that borrow under the FFEL or Direct Loan programs on the number of students enrolled at least half-time at the institution.

The final rules have been changed to provide that an institution must base the percentage of its students that borrow under the FFEL or Direct Loan programs on the number of its "regular students" enrolled at least half-time. A "regular student" is a student 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. This definition is contained in 34 CFR 600.2.

**Economically Disadvantaged Rate Formula**

A change has been made to the formula used to determine the percentage of an institution's students who come from economically disadvantaged backgrounds under § 668.17(c)(1)(ii)(B). The proposed rules provided that the percentage of an institution's students coming from economically disadvantaged backgrounds would be based on all of the institution's students.

The final rules have been changed to provide that the percentage of an institution's students that come from disadvantaged economic backgrounds must be based on the institution's regular students.

**Placement Rate Formula**

A number of changes have been made to the formula used to calculate an institution's placement rate under § 668.17(c)(1)(ii)(B)(2). The formula contained in the proposed rules considered a former student who was initially enrolled full-time as successfully placed if, on the date the institution submits the appeal, the former student:

- (1) is employed, or had been employed for at least 13 weeks, following his or her last day of attendance at the institution; or
- (2) is enrolled or was enrolled for at least 13 weeks in a higher level program at another institution for which the institution's program provided substantial preparation.

The placement rate calculation has been revised to provide that: (a) only former regular students who were initially enrolled at least half-time be