considered in the placement rate; and (b) a student will be considered as successfully placed by the institution if the former student:

(1) has been employed in an occupation for which the institution's program provided training for at least 13 weeks within the 12-month period after the date of the student's last day of attendance; or

(2) is employed in an occupation for which the institution's program provided training on the day after 12 months following the date of the student's last day of attendance.

The final regulations provide that a student who is still enrolled in the institution on the day after 12 months after the date of the student's last day of attendance and is making satisfactory academic progress in the program in which he or she was initially scheduled to complete is excluded from the cohort of students used to determine the institution's placement rate. The proposed rules would have included such students in the placement rate.

Further, under the final regulations, a student or former student may not be considered successfully placed if the institution is the student's or former student's employer.

Finally, the final regulations provide that, in calculating the placement rate formula under § 668.17(c)(2), a student who is initially enrolled at least halftime, but less than full-time, will be considered to be scheduled to complete his or her program during the amount of time normally it would take that student to complete the program based on his or her initial enrollment.

Completion Rate Formula

A change has been made to the formula used to calculate an institution's completion rate under § 668.17(c)(1)(ii)(B)(1). The formula contained in the proposed rules would have based the institution's completion rate on all initially enrolled full-time students. The final rules have been amended to base the institution's completion rate on all initially enrolled full-time regular students.

Submission of Appeal Information

A change has been made to § 668.17(c)(1)(ii) to provide that an appeal on the basis of exceptional mitigating circumstances must be submitted to the Secretary in a format prescribed by the Secretary and must include data elements requested by the Secretary. The proposed rules identified specific detailed information an institution would have to provide in an appeal. The Secretary has removed this detailed information from the final regulations. Instead, the final regulations provide that any information an institution submits regarding an appeal must:

• be submitted in a format prescribed by the Secretary, and

• include information the Secretary has determined is necessary to evaluate the appeal.

The Secretary expects that institutions will be provided with the format in which the appeal must be submitted and the data elements that must be included when the institution is notified of its cohort default rate data in accordance with § 668.17(i).

The information that the Secretary may require in an appeal may include, but is not necessarily limited to, information relating to student enrollment, loan periods, expected family contributions (EFC), adjusted gross incomes, withdrawal dates, graduation dates, transfers, job placement, employer information, job titles, and dates employed. This information is the same information currently required of institutions submitting appeals. Institutions will likely be familiar with these data items since the Official Default Rate Guide (formerly Enclosure B), which is provided to institutions along with their cohort default rates, lists these data elements. The Secretary does not expect these items to change substantially.

Section 668.17(c)($\hat{6}$) of the final regulations has been revised to require the chief executive officer of an institution to certify, under penalty of perjury, that the appeal information is true and correct.

Completion and Placement Rate Appeals

In $\S 668.17(c)(1)(ii)(B)$, a change has been made to an institution's right to appeal using the exceptional mitigating circumstances appeal based on both the percentage of an institution's students that come from disadvantaged economic backgrounds and the institution's completion rate or placement rate. The proposed rules limited the exceptional mitigating circumstance appeal that included the completion rate to public and private nonprofit institutions, and limited the exceptional mitigating circumstances appeal that included the placement rate to proprietary institutions.

The final regulations have been revised to require degree-granting proprietary institutions as well as public or private nonprofit degree-granting institutions, to appeal using the completion rate component, whereas nondegree-granting institutions, public, private nonprofit, or proprietary, may only appeal based on the placement rate component.

Guaranty Agency Verification of Data

The final regulations have been changed in $\S668.17(c)(8)$ to provide that an institution will not lose its eligibility to participate in the FFEL or Direct Loan programs during the appeal process if a guaranty agency does not respond in a timely manner to the institution's timely request to verify data included in the institution's FFEL Program cohort default rate that the institution believes is inaccurate. The proposed rules had provided that an institution would lose its eligibility to continue to participate in the appeal process if it did not submit all of its appeal information to the Secretary within 30 days following notification of the loss of eligibility.

Section 668.17(c)(1) now requires an institution that appeals on the basis of inaccurate data to inform the Secretary that it is appealing on this basis at the same time it submits its request to verify its FFEL Program cohort default rate data to the guaranty agency. Further, an institution must provide its verified data to the Secretary within five working days after it receives that data from the guaranty agency.

Independent Audit of Appeals

The final regulations have been changed in § 668.17(c)(7) to provide that an institution choosing to appeal its loss of eligibility on the basis of exceptional mitigating circumstances must provide a statement from an independent auditor that verifies the information included in the appeal within 60 days following the institution's notification of the loss of eligibility. The proposed rules provided that this information be submitted by the 30th day following notification of the loss of eligibility. The final rules continue to require that the rest of the appeal be submitted by that 30th day.

Further, the regulations have been amended to provide more specific guidance concerning the methodology that must be used by an independent auditor to determine if the information contained in the appeal is correct.

Data Period

The final regulations have been changed in § 668.17(c)(1)(ii)(B) to clarify that the 12-month period used to determine the percentage of the institution's student body that comes from disadvantaged economic backgrounds must be the same 12month period the institution uses to determine its placement rate or completion rate. The proposed rules were read to allow the institution the option to choose a different 12-month