

4. Section 668.86 is amended by revising paragraph (b)(1)(ii) and revising paragraph (b)(3) to read as follows:

§ 668.86 Limitation or termination proceedings.

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(b)(1) * * *
(ii)(A) Specifies the proposed effective date of the limitation or termination, which is at least 20 days after the date of mailing of the notice of intent; or

(B) In the case of a limitation or termination action based on an institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, or, if applicable, weighted average cohort rate, the proposed effective date of the termination is no more than 30 days after the date of the mailing of the notice of intent.

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(3) If the institution or servicer requests a hearing by the time specified in paragraph (b)(1)(iii) of this section, the designated department official sets the date and place. The date is at least 15 days after the designated department official receives the request. In the case of a hearing for an institution subject to limitation or termination action because of its FFEL Program cohort default rate,

Direct Loan Program cohort rate, or, if applicable, weighted average cohort rate, the hearing is set no later than 20 days after the date the designated department official receives the request. The limitation or termination does not take place until after the requested hearing is held.

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5. Section 668.90 is amended by adding a new paragraph (a)(1)(iii)(D), and revising paragraph (a)(3)(iv) to read as follows:

§ 668.90 Initial and final decisions.

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(a)(1) * * *
(iii) * * *

(D) For hearings regarding the limitation, suspension, or termination of an institution based on an institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, or, if applicable, weighted average cohort rate, the 30th day after the conclusion of the hearing.

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(3) * * *

(iv) In a limitation, suspension, or termination proceeding commenced on the grounds described in § 668.17(a) (2) and (3), if the hearing official finds that

an institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, or, if applicable, weighted average cohort rate meets the conditions specified in § 668.17(a) (2) and (3) for initiation of limitation, suspension, or termination proceedings, the hearing official also finds that the sanction sought by the designated department official is warranted, except that the hearing official finds that no sanction is warranted if the institution presents clear and convincing evidence demonstrating that the FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate on which the proposed action is based is not the final rate determined by the Department and that the correct rate would result in the institution having an FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate that is beneath the thresholds that make the institution subject to limitation, suspension, or termination action.

(Authority:) 20 U.S.C. 1082, 1085, 1094, 1099c.)