

Issue Papers

Team II – Foreign Schools

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Issue #1: United States Generally Accepted Accounting Principles (U.S. GAAP) financial statements

Origin: HEOA/Public/ED

Statutory cites: Section 487(c)(1)(A)(i) of the HEA

Regulatory cites: §668.23

Tentative agreement:

Summary of issue: Under §668.23(a)(2), an annual submission of both a compliance audit and an audited financial statement is required of all institutions participating in the student financial assistance programs authorized by Title IV of the HEA. Section 668.23(d)(1) requires that an institution's financial statements must be prepared on an accrual basis in accordance with U.S. generally accepted accounting principles (U.S. GAAP), and audited by an independent auditor in accordance with U.S. generally accepted government auditing standards (U.S. GAGAS), and other guidance contained in the Office of Management and Budget Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations"; Office of Management and Budget Circular A-128, "Audits of State and Local Governments"; or in audit guides developed by, and available from, the Department of Education's Office of Inspector General, whichever is applicable.

Regulations in place permit a foreign school whose enrolled students received less than \$500,000 (in U.S. dollars) in FFEL Program funds per fiscal year to have its required audited financial statements prepared according to the generally accepted accounting principles and auditing standards of the school's home country.

The HEOA gives the Secretary the authority to modify the financial and compliance audit requirements for foreign schools and the authority to waive the audit requirements for foreign schools that receive less than \$500,000 in FFEL Program funds in the preceding year.

On May 15, 2009, the Department published a Dear Colleague Letter (GEN-09-06) announcing that the Secretary was waiving the annual financial statement audit requirement for foreign schools whose enrolled students received less than \$500,000 in FFEL Program funds during the award year preceding the audit period. The waiver applies to any financial statement audit for such a foreign school due on or after August 14, 2008, the effective date of the amendment to this provision by the HEOA, and renders unnecessary the regulation providing for submission of audits prepared under home country standards.

Should the Department modify the financial audit requirements for foreign schools whose enrolled students received \$500,000 or more in FFEL Program funds and, if so, how?

Current Regulatory Language:

§668.15 Factors of financial responsibility.

(h) Foreign institutions. The Secretary makes a determination of financial responsibility for a foreign institution on the basis of financial statements submitted under the following requirements—

(1) If the institution received less than \$500,000 U.S. in title IV, HEA program funds during its most recently completed fiscal year, the institution must submit its audited financial statement for that year. For purposes of this paragraph, the audited financial statements may be prepared under the auditing standards and accounting principles used in the institution's home country; or

(2) If the institution received \$500,000 U.S. or more in title IV, HEA program funds during its most recently completed fiscal year, the institution must submit its audited financial statement in accordance with the requirements of §668.23, and satisfy the general standards of financial responsibility contained in this section, or qualify under an alternate standard of financial responsibility contained in this section.

* * * * *

§668.23 Compliance audits and audited financial statements.

(a) *General* (1) *Independent auditor.* For purposes of this section, the term "independent auditor" refers to an independent certified public accountant or a government auditor. To conduct an audit under this section, a government auditor must meet the Government Auditing Standards qualification and independence standards, including standards related to organizational independence.

(2) *Institutions.* An institution that participates in any Title IV, HEA program must at least annually have an independent auditor conduct a compliance audit of its administration of that program and an audit of the institution's general purpose financial statements.

* * *

(4) *Submission deadline.* Except as provided by the Single Audit Act, Chapter 75 of title 31, United States Code, an institution must submit annually to the Secretary its compliance audit and its audited financial statements no later than six months after the last day of the institution's fiscal year.

(5) *Audit submission requirements.* In general, the Secretary considers the compliance audit and audited financial statement submission requirements of this section to be satisfied by an audit conducted in accordance with the Office of Management and Budget Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations"; Office of Management and Budget Circular A-128, "Audits of State and Local Governments", or the audit guides developed by and available from the Department of Education's Inspector General, whichever is applicable to the entity, and provided that the Federal student aid functions performed by that entity are covered in the submission. (Both OMB circulars are available by calling OMB's Publication Office at (202) 395-7332, or they can be obtained in electronic form on the OMB Home Page (<http://www.whitehouse.gov>).

* * * * *

(d) *Audited financial statements* (1) *General*. To enable the Secretary to make a determination of financial responsibility, an institution must, to the extent requested by the Secretary, submit to the Secretary a set of financial statements for its latest complete fiscal year, as well as any other documentation the Secretary deems necessary to make that determination. Financial statements submitted to the Secretary must be prepared on an accrual basis in accordance with generally accepted accounting principles, and audited by an independent auditor in accordance with generally accepted government auditing standards, and other guidance contained in the Office of Management and Budget Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations"; Office of Management and Budget Circular A-128, "Audits of State and Local Governments"; or in audit guides developed by, and available from, the Department of Education's Office of Inspector General, whichever is applicable. As part of these financial statements, the institution must include a detailed description of related entities based on the definition of a related entity as set forth in the Statement of Financial Accounting Standards (SFAS) 57. The disclosure requirements under this provision extend beyond those of SFAS 57 to include all related parties and a level of detail that would enable to Secretary to readily identify the related party. Such information may include, but is not limited to, the name, location and a description of the related entity including the nature and amount of any transactions between the related party and the institution, financial or otherwise, regardless of when they occurred.

(2) *Submission of additional financial statements*. To the extent requested by the Secretary in determining whether an institution is financially responsible, the Secretary may also require the submission of audited consolidated financial statements, audited full consolidating financial statements, audited combined financial statements or the audited financial statements of one or more related parties that have the ability, either individually or collectively, to significantly influence or control the institution, as determined by the Secretary.

(3) *Audited financial statements for foreign institutions*. A foreign institution must submit—

(i) Audited financial statements prepared in accordance with the generally accepted accounting principles of the institution's home country, if the institution received less than \$500,000 U.S. in Title IV, HEA program funds during its most recently completed fiscal year; or

(ii) Audited financial statements translated to meet the requirements of paragraph (d) of this section, if the institution received \$500,000 U.S. or more in Title IV, HEA program funds during its most recently completed fiscal year.

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Statutory Language with changes from the HEOA:

SEC. 487. [20 U.S.C. 1094] PROGRAM PARTICIPATION AGREEMENTS.

* * * * *

(c) AUDITS; FINANCIAL RESPONSIBILITY; ENFORCEMENT OF STANDARDS.—(1) Notwithstanding any other provisions of this title, the Secretary shall prescribe such regulations as may be necessary to provide for—

(A) (i) except as provided in clauses (ii) and (iii), a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the appropriate State agency notifying the Secretary under subpart 1 of part H, except that the Secretary may modify the requirements of this clause with respect to institutions of higher education that are foreign institutions, and may waive such requirements with respect to a foreign institution whose students receives less than \$500,000 in loans under this title during the award year preceding the audit period;

(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit; or

(iii) at the discretion of the Secretary, with regard to an eligible institution (other than an eligible institution described in section 102(a) (1) (C)) that has obtained less than \$200,000 in funds under this title during each of the 2 award years that precede the audit period and submits a letter of credit payable to the Secretary equal to not less than 1/2 of the annual potential liabilities of such institution as determined by the Secretary, deeming an audit conducted every 3 years to satisfy the requirements of clause (i), except for the award year immediately preceding renewal of the institution's eligibility under section 498 (g) ;

(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title, including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution;

Issue #2: Compliance audits

Origin: HEOA/Public/ED

Statutory cites: Section 487(c)(1)(A)(i) of the HEA

Regulatory cites: §668.23

Tentative agreement:

Summary of issue: Under §668.23(a)(2), an annual submission of both a compliance audit and an audited financial statement is required of all institutions participating in the student financial assistance programs authorized by Title IV of the HEA.

The HEOA gives the Secretary the authority to modify the financial and compliance audit requirements for foreign schools and the authority to waive the audit requirements for foreign schools that receive less than \$500,000 in FFEL Program funds in the preceding year.

The current Inspector General's Audit Guide concerning compliance audits for foreign schools includes an Alternative Compliance Engagement which may be used by foreign schools whose enrolled students received less than the \$500,000 threshold in FFEL Program funds.

Should the Department modify or waive the compliance audit requirements for foreign schools and, if so, how?

Current Regulatory Language:

§668.23 Compliance audits and audited financial statements.

(a) *General* (1) *Independent auditor.* For purposes of this section, the term "independent auditor" refers to an independent certified public accountant or a government auditor. To conduct an audit under this section, a government auditor must meet the Government Auditing Standards qualification and independence standards, including standards related to organizational independence.

(2) *Institutions.* An institution that participates in any Title IV, HEA program must at least annually have an independent auditor conduct a compliance audit of its administration of that program and an audit of the institution's general purpose financial statements.

* * *

(4) *Submission deadline.* Except as provided by the Single Audit Act, Chapter 75 of title 31, United States Code, an institution must submit annually to the Secretary its compliance audit and its audited financial statements no later than six months after the last day of the institution's fiscal year.

(5) *Audit submission requirements.* In general, the Secretary considers the compliance audit and audited financial statement submission requirements of this section to be satisfied by an audit conducted in accordance with the Office of Management and Budget Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations"; Office of Management and Budget

Circular A-128, "Audits of State and Local Governments", or the audit guides developed by and available from the Department of Education's Inspector General, whichever is applicable to the entity, and provided that the Federal student aid functions performed by that entity are covered in the submission. (Both OMB circulars are available by calling OMB's Publication Office at (202) 395-7332, or they can be obtained in electronic form on the OMB Home Page (<http://www.whitehouse.gov>).

(b) *Compliance audits for institutions.* (1) An institution's compliance audit must cover, on a fiscal year basis, all Title IV, HEA program transactions, and must cover all of those transactions that have occurred since the period covered by the institution's last compliance audit.

(2) The compliance audit required under this section must be conducted in accordance with—

(i) The general standards and the standards for compliance audits contained in the U.S. General Accounting Office's (GAO's) Government Auditing Standards. (This publication is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402); and

(ii) Procedures for audits contained in audit guides developed by, and available from, the Department of Education's Office of Inspector General.

(3) The Secretary may require an institution to provide a copy of its compliance audit report to guaranty agencies or eligible lenders under the FFEL programs, State agencies, the Secretary of Veterans Affairs, or nationally recognized accrediting agencies.

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Statutory Language with changes from the HEOA:

SEC. 487. [20 U.S.C. 1094] PROGRAM PARTICIPATION AGREEMENTS.

* * * * *

(c) AUDITS; FINANCIAL RESPONSIBILITY; ENFORCEMENT OF STANDARDS.—(1) Notwithstanding any other provisions of this title, the Secretary shall prescribe such regulations as may be necessary to provide for—

(A) (i) except as provided in clauses (ii) and (iii), a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary and shall be available to

cognizant guaranty agencies, eligible lenders, State agencies, and the appropriate State agency notifying the Secretary under subpart 1 of part H, except that the Secretary may modify the requirements of this clause with respect to institutions of higher education that are foreign institutions, and may waive such requirements with respect to a foreign institution whose students receives less than \$500,000 in loans under this title during the award year preceding the audit period;

(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit; or

(iii) at the discretion of the Secretary, with regard to an eligible institution (other than an eligible institution described in section 102(a)(1)(C)) that has obtained less than \$200,000 in funds under this title during each of the 2 award years that precede the audit period and submits a letter of credit payable to the Secretary equal to not less than 1/2 of the annual potential liabilities of such institution as determined by the Secretary, deeming an audit conducted every 3 years to satisfy the requirements of clause (i), except for the award year immediately preceding renewal of the institution's eligibility under section 498(g);

(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title, including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution;

Issue #3: Definition of a foreign school

Origin: ED
Statutory cites: Section 102(a)(1)(C) of the HEA
Regulatory cites: §600.52, §600.54, §682.200

Tentative agreement:

Summary of issue: A foreign institution is defined as an institution that is not located in a State. A State is defined in §600.2 as 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. A foreign institution is eligible to apply to participate in the FFEL program if it is comparable to an eligible institution of higher education located in the United States. An eligible foreign institution is considered to be comparable, in part, if it is legally authorized by an appropriate authority to provide an educational program beyond secondary education in the country where the institution is physically located. The Department has not explicitly regulated to say what makes a foreign institution "foreign" except that the institution may not be located in a State. We would like to further define what makes a foreign institution "foreign" and consider whether additional requirements are necessary to ensure comparability.

Current Regulatory Language:

§600.52 Definitions.

The following definitions apply to this subpart E:

* * * * *

Foreign institution: An institution that is not located in a State.

* * * * *

§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.

§682.200 Definitions.

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(b) (1) The following definitions also apply to this part:

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Foreign school. A school not located in a State.

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Issue #4: Non-profit status for foreign schools

Origin: ED

Statutory cites: Section 102(a)(2)(A) of the HEA

Regulatory cites: §600.2, §600.54

Tentative agreement:

Summary of issue: Except for a foreign medical, veterinary or nursing school, to participate in the FFEL/Direct Loan program, a foreign institution must be a public or private nonprofit educational institution. Section 668.2 defines a nonprofit institution as an institution that-

- is owned and operated by one or more nonprofit corporations or associations, no parts of the net earnings of which benefits any private shareholder or individual;
- is legally authorized to operate as a nonprofit organization by each State in which it is physically located; and
- 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)).

The Department would like to develop a comparable definition specifically for foreign schools.

Current Regulatory Language:

§600.2 Definitions.

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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)).

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Issue #5: Public foreign schools and financial responsibility

Origin: ED

Statutory cites: Section 498(c)(3)(B) of the HEA

Regulatory cites: §668.171(c)

Tentative agreement:

Summary of issue: Section 668.171(c) provides that an institution is financially responsible if the institution—

- Notifies the Secretary that it is designated as a public institution by the State, local or municipal government entity, tribal authority, or other government entity that has the legal authority to make that designation; and
- Provides a letter from an official of that State or other government entity confirming that the institution is a public institution.

In addition, the institution may not be in violation of any past performance requirement.

Should the Department develop a financial responsibility provision specifically for public foreign schools?

Current Regulatory Language:

§668.171 General.

(a) *Purpose.* To begin and to continue to participate in any Title IV, HEA program, an institution must demonstrate to the Secretary that it is financially responsible under the standards established in this subpart. As provided under section 498(c)(1) of the HEA, the Secretary determines whether an institution is financially responsible based on the institution's ability to—

(1) Provide the services described in its official publications and statements;

(2) Administer properly the Title IV, HEA programs in which it participates; and

(3) Meet all of its financial obligations.

(b) *General standards of financial responsibility.* Except as provided under paragraphs (c) and (d) of this section, the Secretary considers an institution to be financially responsible if the Secretary determines that—

(1) The institution's Equity, Primary Reserve, and Net Income ratios yield a composite score of at least 1.5, as provided under §668.172 and appendices A and B to this subpart;

(2) The institution has sufficient cash reserves to make required returns of unearned Title IV HEA program funds, as provided under §668.173;

(3) The institution is current in its debt payments. An institution is not current in its debt payments if—

(i) It is in violation of any existing loan agreement at its fiscal year end, as disclosed in a note to its audited financial statements or audit opinion; or

(ii) It fails to make a payment in accordance with existing debt obligations for more than 120 days, and at least one creditor has filed suit to recover funds under those obligations; and

(4) The institution is meeting all of its financial obligations, including but not limited to—

(i) Refunds that it is required to make under its refund policy, including the return of Title IV, HEA program funds for which it is responsible under §668.22; and

(ii) Repayments to the Secretary for debts and liabilities arising from the institution's participation in the Title IV, HEA programs.

(c) *Public institutions.* The Secretary considers a public institution to be financially responsible if the institution—

(1) (i) Notifies the Secretary that it is designated as a public institution by the State, local or municipal government entity, tribal authority, or other government entity that has the legal authority to make that designation; and

(ii) Provides a letter from an official of that State or other government entity confirming that the institution is a public institution; and

(2) Is not in violation of any past performance requirement under §668.174.

(d) *Audit opinions and past performance provisions.* Even if an institution satisfies all of the general standards of financial responsibility under paragraph (b) of this section, the Secretary does not consider the institution to be financially responsible if—

(1) In the institution's audited financial statements, the opinion expressed by the auditor was an adverse, qualified, or disclaimed opinion, or the auditor expressed doubt about the continued existence of the institution as a going concern, unless the Secretary determines that a qualified or disclaimed opinion does not have a significant bearing on the institution's financial condition; or

(2) As provided under the past performance provisions in §668.174 (a) and (b) (1), the institution violated a Title IV, HEA program requirement, or the persons or entities affiliated with the institution owe a liability for a violation of a Title IV, HEA program requirement.

(e) *Administrative actions.* If the Secretary determines that an institution is not financially responsible under the standards and provisions of this section or under an alternative standard in §668.175, or the institution does not submit its financial and compliance audits by the date permitted and in the manner required under §668.23, the Secretary may—

(1) Initiate an action under subpart G of this part to fine the institution, or limit, suspend, or terminate the institution's participation in the Title IV, HEA programs; or

(2) For an institution that is provisionally certified, take an action against the institution under the procedures established in §668.13(d).

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Issue #6: Consolidation of select Title IV requirements on a nationwide basis

Origin: ED

Statutory cites:

Regulatory cites: To be determined

Tentative agreement:

Summary of issue: To ease administrative burden, are there any Title IV requirements that can be met by a country or other government entity for several foreign schools at once? For example, should the regulations allow proof of legal authorization of all public institutions in a country at once? Should this provision also be written to conform to suggested changes that would allow a country to meet the financial responsibility requirements for an institution?

Current Regulatory Language: To be determined.

Issue #7: Deferments for eligible non-citizens

Origin: ED
Statutory cites: Section 484(a)(5) of the HEA
Regulatory cites: §668.33(a) and §682.210(b)(1)(i)
Tentative agreement:
Summary of issue:

This issue is more limited in scope than originally thought. The Department will recommend removing it from the agenda.

Current Regulatory Language:

§668.33 Citizenship and residency requirements.

(a) Except as provided in paragraph (b) of this section, to be eligible to receive Title IV, HEA program assistance, a student must—

- (1) Be a citizen or national of the United States; or
- (2) Provide evidence from the U.S. Immigration and Naturalization Service that he or she—
 - (i) Is a permanent resident of the United States; or
 - (ii) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident;

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§682.210 Deferment.

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(b) *Authorized deferments.* (1) Deferment is authorized for a FFEL borrower during any period when the borrower is—

- (i) Except as provided in paragraph (c)(5) of this section, engaged in full-time study at a school, or at a school that is operated by the Federal Government (e.g., the service academies), unless the borrower is not a national of the United States and is pursuing a course of study at a school not located in a State;
- (ii) Engaged in a course of study under an eligible graduate fellowship program;
- (iii) Engaged in a rehabilitation training program for disabled individuals;

Issue #8: Non-degree programs

Origin: ED

Statutory cites:

Regulatory cites: §600.54(c), §668.8(k) and (l), §668.9

Tentative agreement:

Summary of issue: Section 600.54 provides that, in order to be eligible, a foreign institution must provide an eligible educational program that leads to a degree that is equivalent to a U.S. degree, or be at least a two-academic year program acceptable for full credit toward the equivalent of a U.S. baccalaureate degree, or be equivalent to at least a one academic year training program that leads to a certificate or diploma and prepares students for gainful employment in a recognized occupation.

Section 668.8(l), part of the "clock hour/credit hour conversion" regulations, provides that an undergraduate non-degree program must be reported to the Department in clock-hours and, if appropriate, semester, trimester, and quarter credit hours to determine eligibility and program length for a clock-credit hour conversion. A program where each course within the program is acceptable for full credit toward one of the institution's degree programs, and the degree requires at least two years of study, is exempt from using the conversion formula. If a school applies the appropriate formula and finds that a program is eligible, the converted credit hours are used to determine the amount of Title IV funds that a student who is enrolled in the program is eligible to receive (except that a public and private nonprofit hospital-based diploma schools of nursing is exempt from using the clock-to-credit hour conversion formula to calculate Title IV awards).

Many foreign schools use educational measurements other than conventional American semester, trimester, quarter credits and clock-hours. How should non-degree programs at foreign schools be treated for purposes of Title IV eligibility?

Current Regulatory Language:

§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—

* * *

(c) Provides an eligible education program—

* * *

(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.

§668.8 Eligible program.

* * * * *

(k) *Undergraduate educational program in credit hours.* If an institution offers an undergraduate educational program in credit hours, the institution must use the formula contained in paragraph

(1) of this section to determine whether that program satisfies the requirements contained in paragraph (c) (3) or (d) of this section, and the number of credit hours in that educational program for purposes of the Title IV, HEA programs, unless—

(1) The program is at least two academic years in length and provides an associate degree, a bachelor's degree, a professional degree, or an equivalent degree as determined by the Secretary; or

(2) Each course within the program is acceptable for full credit toward that institution's associate degree, bachelor's degree, professional degree, or equivalent degree as determined by the Secretary, provided that the institution's degree requires at least two academic years of study.

(1) *Formula.* For purposes of determining whether a program described in paragraph (k) of this section satisfies the requirements contained in paragraph (c) (3) or (d) of this section, and the number of credit hours in that educational program with regard to the Title IV, HEA programs—

(1) A semester hour must include at least 30 clock hours of instruction;

(2) A trimester hour must include at least 30 clock hours of instruction; and

(3) A quarter hour must include at least 20 hours of instruction.

* * * * *

§668.9 Relationship between clock hours and semester, trimester, or quarter hours in calculating Title IV, HEA program assistance.

(a) In determining the amount of Title IV, HEA program assistance that a student who is enrolled in a program described in §668.8(k) is eligible to receive, the institution shall apply the formula contained in §668.8(1) to determine the number of semester, trimester, or quarter hours in that program, if the institution measures academic progress in that program in semester, trimester, or quarter hours.

(b) Notwithstanding paragraph (a) of this section, a public or private nonprofit hospital-based school of nursing that awards a diploma at the completion of the school's program of education is not required to apply the formula contained in §668.8(1) to determine the number of semester, trimester, or quarter hours in that program for purposes of calculating Title IV, HEA program assistance.

Issue #9: New eligibility criteria for foreign medical schools

Origin: HEOA

Statutory cites: Section 102(a)(2)(A) and (B) of the HEA

Regulatory cites: §600.55

Tentative agreement:

Summary of issue: Effective July 1, 2010, the HEOA

- increases the Educational Commission for Foreign Medical Graduates (ECFMG) exams pass rate threshold from 60 percent to 75 percent;
- allows a foreign graduate medical school that was eligible based on having a clinical training program approved by a State as of July 1, 1992, to continue to be eligible as long as it has continuously operated a clinical training program in at least one State that approves the program; and
- allows for the promulgation through regulation of new eligibility criteria for foreign graduate medical schools that have a clinical training program approved by a State prior to January 1, 2008. Such regulations must be based on the recommendations of the National Committee on Foreign Medical Education and Accreditation (NCFMEA) report (the report can be viewed at <http://tinyurl.com/ncfmeaforeignschools>). The NCFMEA is a panel of medical experts which evaluates the medical school accrediting agency standards used in the country where medical education is provided to determine comparability to the standards of accreditation applied to medical schools in the U.S. The Department may issue a Notice of Proposed Rulemaking (NPRM) no earlier than 180 days after the submission of the report (which is due no later than August 14, 2009), and may issue final regulations no earlier than one year after the issuance of the NPRM. Thus, any new eligibility criteria for foreign graduate medical schools will become effective when implementing regulations do. However, the regulations must, at a minimum, require an ECFMG pass rate of at least 75 percent. The NCFMEA's recommendations concern, among other things, admission requirements (Recommendation 1); success in obtaining placement in a U.S. medical residence program accredited by the Accreditation Council for Graduate Medical Education (Recommendation 3); calculation and collection of ECFMG exam pass rates (Recommendation 4); publication of the language of instruction (Recommendation 10); and publication of cost of attendance (Recommendation 14).

Current Regulatory Language:

§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 graduate medical school to be eligible to apply to participate in the FFEL programs if, in addition to satisfying the criteria in §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 §600.4(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-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) For a foreign graduate medical school outside of Canada, 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.

Statutory Language with Changes from the HEOA:

SEC. 102. [20 U.S.C. 1002] DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR PURPOSES OF TITLE IV PROGRAMS.

(a) DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR PURPOSES OF TITLE IV PROGRAMS.—

* * *

(2) INSTITUTIONS OUTSIDE THE UNITED STATES.—

(A) IN GENERAL.—For the purpose of qualifying as an institution under paragraph (1) (C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 101 (except that a graduate medical school, nursing school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 101(a) (4)). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of Title IV unless—

(i) except as provided in subparagraph (B) (iii) (IV), in the case of a graduate medical school located outside the United States--

(I) (aa) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 484(a) (5) in the year preceding the year for which a student is seeking a loan under part B of title IV; and

(bb) at least 6075 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of Title IV; or

~~(II) the institution has a clinical training program that was approved by a State as of January 1, 1992; or~~

(II) the institution-

(aa) has or had a clinical training program that was approved by a State as of January 1, 1992; and

(bb) continues to operate a clinical training program in at least one State that is approved by that State;

(ii) the institution has a clinical training program that was approved by a State as of January 1, 1992, or the institution's students complete their clinical training at an approved veterinary school located in the United States~~;~~ or

(iii) [foreign nursing school provisions]

(B) ADVISORY PANEL.-

(i) IN GENERAL.-For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall-

(I) evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) SPECIAL RULE.-If the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 101.

(iii) REPORT.-

(I) IN GENERAL.-Not later than 1 year after the date of enactment of the Higher Education Opportunity Act, the advisory panel described in clause (i) shall submit a report to the Secretary and to the authorizing committees recommending eligibility criteria for participation in the loan programs under part B of Title IV for graduate medical schools that-

(aa) are located outside of the United States;

(bb) do not meet the requirements of subparagraph (A)(i); and

(cc) have a clinical training program approved by a State prior to January 1, 2008.

(II) RECOMMENDATIONS.-In the report described in subclause (I), the advisory panel's eligibility criteria shall include recommendations regarding the appropriate levels of performance for graduate medical schools described in such subclause in the following areas:

(aa) Entrance requirements.

(bb) Retention and graduation rates.

(cc) Successful placement of students in United States medical residency programs.

(dd) Passage rate of students on the United States Medical Licensing Examination.

(ee) The extent to which State medical boards have assessed the quality of such school's program of instruction, including through on-site reviews.

(ff) The extent to which graduates of such schools would be unable to practice medicine in 1 or more States, based on the judgment of a State medical board.

(gg) Any areas recommended by the Comptroller General of the United States under section 1101 of the Higher Education Opportunity Act.

(hh) Any additional areas the Secretary may require.

(III) MINIMUM ELIGIBILITY REQUIREMENT.—In the recommendations described in subclause (II), the criteria described in subparagraph (A) (i) (I) (bb), as amended by section 102(b) of the Higher Education Opportunity Act, shall be a minimum eligibility requirement for a graduate medical school described in subclause (I) to participate in the loan programs under part B of Title IV.

(IV) AUTHORITY.—The Secretary may—

(aa) not earlier than 180 days after the submission of the report described in subclause (I), issue proposed regulations establishing criteria for the eligibility of graduate medical schools described in such subclause to participate in the loan programs under part B of Title IV based on the recommendations of such report; and

(bb) not earlier than one year after the issuance of proposed regulations under item (aa), issue final regulations establishing such criteria for eligibility.

* * * * *

Issue #10: Clinical sites of foreign medical schools and foreign veterinary schools in other countries

Origin: ED

Statutory cites: Section of the HEA

Regulatory cites: §600.55 and §600.56

Tentative agreement:

Summary of issue: Clarify whether locations of clinical sites of foreign graduate medical schools and foreign veterinary schools (other than those located in the U.S., which is permitted by statute) must be located in the same country as the home school.

Current Department guidance is as follows: All portions of the graduate medical education program offered to U.S. students must be located in a country whose medical school accrediting standards are comparable to standards used in the United States, as determined by the NCFMEA. In addition, if any component of the clinical training program is located in an approved comparable foreign country other than the country in which the main campus is located, the institution's medical accrediting agency must have conducted an on-site evaluation and specifically approved the clinical training sites in order for students attending the site to be eligible to borrow Title IV, HEA program funds. Furthermore, clinical instruction offered at a site in a foreign NCFMEA-approved country must be offered in conjunction with medical educational programs offered to students enrolled in accredited medical schools located in that approved foreign country.

Current Regulatory Language:

§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 graduate medical school to be eligible to apply to participate in the FFEL programs if, in addition to satisfying the criteria in §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.

* * * * *

§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 §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) For a veterinary school that is neither public nor private nonprofit, the school's students complete their clinical training at an approved veterinary school located in the United States.

(b) [Reserved]

Issue #11: Basic science locations of foreign medical schools, foreign nursing schools, and foreign veterinary schools in other countries

Origin: ED
Statutory cites: Section of the HEA
Regulatory cites: §600.55 and §600.56
Tentative agreement:

Summary of issue: Clarify whether locations of basic sciences classroom medical instruction of foreign graduate medical schools, foreign nursing schools, and foreign veterinary schools must be located in the same country as the home school. Clarify whether all or part of a foreign medical, foreign nursing, or veterinary school program can be contracted out, and if so, under what conditions.

Current Department guidance requires that all portions of the graduate medical education program offered to U.S. students must be located in a country whose medical school accrediting standards are comparable to standards used in the United States, as determined by the NCFMEA. No component of the basic sciences classroom medical instruction can occur outside of the foreign home country.

Current Regulatory Language:

§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 graduate medical school to be eligible to apply to participate in the FFEL programs if, in addition to satisfying the criteria in §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.

* * * * *

§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 §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) For a veterinary school that is neither public nor private nonprofit, the school's students complete their clinical training at an approved veterinary school located in the United States.

(b) [Reserved]

Issue #12: Eligibility requirements for foreign veterinary schools

Origin: ED

Statutory cites: Section 102(a)(2)(A) of the HEA

Regulatory cites: §600.56

Tentative agreement:

Summary of issue: Section 600.56(a)(3) provides that a foreign veterinary school is considered eligible to participate in the FFEL programs if, in addition to other requirements, it:

- provides a program of clinical and classroom veterinary instruction that is provided in facilities adequately equipped and staffed to afford students comprehensive clinical and classroom veterinary instruction;
- employs 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.

Should the regulations provide guidance on determining what constitutes "adequately equipped and staffed" facilities or indicators of the equivalency of faculty members' credentials in teaching veterinary courses, or include different standards to ensure academic quality?

Current Regulatory Language:

§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 §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) For a veterinary school that is neither public nor private non-profit, the school's students complete their clinical training at an approved veterinary school located in the United States.

(b) [Reserved]

Issue #13: Eligibility requirements for foreign nursing schools

Origin: HEOA

Statutory cites: Section 102(a)(2)(A) of the HEA

Regulatory cites: None

Tentative agreement:

Summary of issue: The HEOA provides specific standards for foreign nursing schools. The provision is effective beginning July 1, 2010, except that, for nursing schools that were eligible to participate on August 13, 2008 (the day before enactment of the HEOA) they are effective July 1, 2012.

The HEOA provides that a foreign nursing school, including a for-profit nursing school, may not participate in the FFEL Program unless:

- the school has an agreement with a hospital, or accredited school of nursing (as those terms are defined in section 801 of the Public Health Service Act (42 United States Code [U.S.C.] 296)), located in the United States that requires the students of the nursing school to complete the students' clinical training at such hospital or accredited school of nursing;
- the school has an agreement with an accredited school of nursing located in the United States providing that the students graduating from the foreign nursing school also receive a degree from the accredited U.S. school of nursing;
- the school certifies only Federal Stafford Loans under section 428 of the HEA, unsubsidized Federal Stafford Loans under section 428H of the HEA, or Federal PLUS loans under section 428B of the HEA for students attending the institution;
- the school reimburses the Secretary for the cost of any loan defaults for current and former students included in the calculation of the institution's cohort default rate during the previous fiscal year; and
- not less than 75 percent of the individuals who were students or graduates of the nursing school, and who took the National Council Licensure Examination for Registered Nurses in the year preceding the year for which the institution is certifying a Federal Stafford Loan, an unsubsidized Federal Stafford Loan, or a Federal PLUS loan, received a passing score on such examination.

Current Regulatory Language: None.

Statutory Language with Changes from the HEOA:

SEC. 102. [20 U.S.C. 1002] DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR PURPOSES OF TITLE IV PROGRAMS.

(a) DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR PURPOSES OF TITLE IV PROGRAMS.—

* * *

(2) INSTITUTIONS OUTSIDE THE UNITED STATES.—

(A) IN GENERAL.—For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 101 (except that a graduate medical school, nursing school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 101(a)(4)). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of Title IV unless—

(i) except as provided in subparagraph (B)(iii)(IV), in the case of a graduate medical school located outside the United States--

(I)(aa) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 484(a)(5) in the year preceding the year for which a student is seeking a loan under part B of title IV; and

(bb) at least ~~60~~75 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of Title IV; or

~~(II) the institution has a clinical training program that was approved by a State as of January 1, 1992; or~~

(II) the institution—

(aa) has or had a clinical training program that was approved by a State as of January 1, 1992; and

(bb) continues to operate a clinical training program in at least one State that is approved by that State;

(ii) the institution has a clinical training program that was approved by a State as of January 1, 1992, or the institution's students complete their clinical training at an approved veterinary school located in the United States—; or

(iii) in the case of a nursing school located outside of the United States—

(I) the nursing school has an agreement with a hospital, or accredited school of nursing (as such terms are defined in section 801 of the Public Health Service Act (42 U.S.C. 296)), located in the United States that requires the students of the nursing school to complete the students' clinical training at such hospital or accredited school of nursing;

(II) the nursing school has an agreement with an accredited school of nursing located in the United States providing that the students graduating from the nursing school located outside of the United States also receive a degree from the accredited school of nursing located in the United States;

(III) the nursing school certifies only Federal Stafford Loans under section 428, unsubsidized Federal Stafford Loans under section 428H, or Federal PLUS loans under section 428B for students attending the institution;

(IV) the nursing school reimburses the Secretary for the cost of any loan defaults for current and former students included in the calculation of the institution's cohort default rate during the previous fiscal year; and

(V) not less than 75 percent of the individuals who were students or graduates of the nursing school, and who took the National Council Licensure Examination for Registered Nurses in the year preceding the year for which the institution is certifying a Federal Stafford Loan under section 428, an unsubsidized Federal Stafford Loan under section 428H, or a Federal PLUS loan under section 428B, received a passing score on such examination.

42 U.S.C. § 296. Definitions.

As used in this title:

* * *

(2) School of nursing. The term "school of nursing" means a collegiate, associate degree, or diploma school of nursing in a State.

(3) Collegiate school of nursing. The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and related subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, or to an equivalent degree, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college or university is accredited.

(4) Associate degree school of nursing. The term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if such program, or such unit, college, or university is accredited.

(5) Diploma school of nursing. The term "diploma school of nursing" means a school affiliated with a hospital or university, or an

independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school or such hospital or university or such independent school is accredited.

(6) Accredited.

(A) In general. Except as provided in subparagraph (B), the term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education and when applied to a hospital, school, college, or university (or a unit thereof) means a hospital, school, college, or university (or a unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education. For the purpose of this paragraph, the Secretary of Education shall publish a list of recognized accrediting bodies, and of State agencies, which the Secretary of Education determines to be reliable authority as to the quality of education offered.

(B) New programs. A new program of nursing that, by reason of an insufficient period of operation, is not, at the time of the submission of an application for a grant or contract under this title, eligible for accreditation by such a recognized body or bodies or State agency, shall be deemed accredited for purposes of this title if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the program will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students of the first entering class in such a program.

Issue #14: Foreign medical, veterinary, and nursing schools certified separately from larger school

Origin: ED

Statutory cites:

Regulatory cites: §600.20

Tentative agreement:

Summary of issue: Should the regulations require that all foreign medical, nursing and veterinary schools be certified separately from any larger school, as recommended by NCFMEA (Recommendation 14(a))? Should the certification period for foreign medical schools be shortened to three years, as recommended by NCFMEA (Recommendation 14(b))?

Current Regulatory Language:

§600.20 Application procedures for establishing, reestablishing, maintaining, or expanding institutional eligibility and certification.

(a) *Initial eligibility application.* An institution that wishes to establish its eligibility to participate in any HEA program must submit an application to the Secretary for a determination that it qualifies as an eligible institution under this part. If the institution also wishes to be certified to participate in the Title IV, HEA programs, it must indicate that intent on the application, and submit all the documentation indicated on the application to enable the Secretary to determine that it satisfies the relevant certification requirements contained in 34 CFR part 668, subparts B and L.

(b) *Reapplication.* (1) A currently designated eligible institution that is not participating in the Title IV, HEA programs must apply to the Secretary for a determination that the institution continues to meet the requirements in this part if the Secretary requests the institution to reapply. If the institution wishes to be certified to participate in the Title IV, HEA programs, it must submit an application to the Secretary and must submit all the supporting documentation indicated on the application to enable the Secretary to determine that it satisfies the relevant certification requirements contained in subparts B and L of 34 CFR part 668.

(2) A currently designated eligible institution that participates in the Title IV, HEA programs must apply to the Secretary for a determination that the institution continues to meet the requirements in this part and in 34 CFR part 668 if the institution wishes to—

(i) Continue to participate in the Title IV, HEA programs beyond the scheduled expiration of the institution's current eligibility and certification designation;

(ii) Reestablish eligibility and certification as a private nonprofit, private for-profit, or public institution following a change in ownership that results in a change in control as described in §600.31; or

(iii) Reestablish eligibility and certification after the institution changes its status as a proprietary, nonprofit, or public institution.

(c) *Application to expand eligibility.* A currently designated eligible institution that wishes to expand the scope of its eligibility and certification and disburse Title IV, HEA Program funds to students enrolled in that expanded scope must apply to the Secretary and wait for approval to—

(1) Add a location at which the institution offers or will offer 50 percent or more of an educational program if one of the following conditions applies, otherwise it must report to the Secretary under §600.21:

(i) The institution participates in the Title IV, HEA programs under a provisional certification, as provided in 34 CFR 668.13.

(ii) The institution receives Title IV, HEA program funds under the reimbursement or cash monitoring payment method, as provided in 34 CFR part 668, subpart K.

(iii) The institution acquires the assets of another institution that provided educational programs at that location during the preceding year and participated in the Title IV, HEA programs during that year.

(iv) The institution would be subject to a loss of eligibility under 34 CFR 668.188 if it adds that location.

(v) The Secretary previously notified the institution that it must apply for approval of an additional location.

(2) Increase its level of program offering (e.g., adding graduate degree programs when it previously offered only baccalaureate degree programs);

(3) Add an educational program if the institution is required to apply to the Secretary for approval under §600.10(c);

(4) Add a branch campus at a location that is not currently included in the institution's eligibility and certification designation; or

(5) Convert an eligible location to a branch campus.

* * * * *