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receive title IV, HEA program funds for one year after the date of conviction;

(ii) Two times for possession of illegal drugs, the student is ineligible to receive title IV, HEA program funds for two years after the date of the second conviction; or

(iii) Three or more times for possession of illegal drugs, the student is ineligible to receive title IV, HEA program funds for an indefinite period after the date of the third conviction.

(2) *Sale*. Except as provided in paragraph (c) of this section, if a student has been convicted—

(i) Only one time for sale of illegal drugs, the student is ineligible to receive title IV, HEA program funds for two years after the date of conviction; or

(ii) Two or more times for sale of illegal drugs, the student is ineligible to receive Title IV, HEA program funds for an indefinite period after the date of the second conviction.

(c) If a student successfully completes a drug rehabilitation program described in paragraph (d) of this section after the student's most recent drug conviction, the student regains eligibility on the date the student successfully completes the program.

(d) A drug rehabilitation program referred to in paragraph (c) of this section is one which—

(1) Includes at least two unannounced drug tests; and

(2)(i) Has received or is qualified to receive funds directly or indirectly under a Federal, State, or local government program;

(ii) Is administered or recognized by a Federal, State, or local government agency or court;

(iii) Has received or is qualified to receive payment directly or indirectly from a Federally- or State-licensed insurance company; or

(iv) Is administered or recognized by a Federally- or State-licensed hospital, health clinic or medical doctor.

(Authority: 20 U.S.C. 1091(r))

[64 FR 57358, Oct. 22, 1999, as amended at 71 FR 45696, Aug. 9, 2006]

34 CFR Ch. VI (7–1–19 Edition)

Subpart D—Institutional and Financial Assistance Information for Students

SOURCE: 51 FR 43323, Dec. 1, 1986, unless otherwise noted.

§ 668.41 Reporting and disclosure of information.

(a) *Definitions*. The following definitions apply to this subpart:

Athletically related student aid means any scholarship, grant, or other form of financial assistance, offered by an institution, the terms of which require the recipient to participate in a program of intercollegiate athletics at the institution. Other student aid, of which a student-athlete simply happens to be the recipient, is not athletically related student aid.

Certificate or degree-seeking student means a student enrolled in a course of credit who is recognized by the institution as seeking a degree or certificate.

First-time undergraduate student means an entering undergraduate who has never attended any institution of higher education. It includes a student enrolled in the fall term who attended a postsecondary institution for the first time in the prior summer term, and a student who entered with advanced standing (college credit earned before graduation from high school).

Normal time is the amount of time necessary for a student to complete all requirements for a degree or certificate according to the institution's catalog. This is typically four years for a bachelor's degree in a standard term-based institution, two years for an associate degree in a standard term-based institution, and the various scheduled times for certificate programs.

Notice means a notification of the availability of information an institution is required by this subpart to disclose, provided to an individual on a one-to-one basis through an appropriate mailing or publication, including direct mailing through the U.S. Postal Service, campus mail, or electronic mail. Posting on an Internet website or an Intranet website does not constitute a notice.

Official fall reporting date means that date (in the fall) on which an institution must report fall enrollment data

to either the State, its board of trustees or governing board, or some other external governing body.

On-campus student housing facility: A dormitory or other residential facility for students that is located on an institution's campus, as defined in § 668.46(a).

Prospective employee means an individual who has contacted an eligible institution for the purpose of requesting information concerning employment with that institution.

Prospective student means an individual who has contacted an eligible institution requesting information concerning admission to that institution.

Undergraduate students, for purposes of §§ 668.45 and 668.48 only, means students enrolled in a bachelor's degree program, an associate degree program, or a vocational or technical program below the baccalaureate.

(b) **Disclosure through Internet or Intranet websites.** Subject to paragraphs (c)(2), (e)(2) through (4), or (g)(1)(ii) of this section, as appropriate, an institution may satisfy any requirement to disclose information under paragraph (d), (e), or (g) of this section for—

(1) Enrolled students or current employees by posting the information on an Internet website or an Intranet website that is reasonably accessible to the individuals to whom the information must be disclosed; and

(2) Prospective students or prospective employees by posting the information on an Internet website.

(c) **Notice to enrolled students.** (1) An institution annually must distribute to all enrolled students a notice of the availability of the information required to be disclosed pursuant to paragraphs (d), (e), and (g) of this section, and pursuant to 34 CFR 99.7 (§ 99.7 sets forth the notification requirements of the Family Educational Rights and Privacy Act of 1974). The notice must list and briefly describe the information and tell the student how to obtain the information.

(2) An institution that discloses information to enrolled students as required under paragraph (d), (e), or (g) of this section by posting the information on an Internet website or an Intranet website must include in the notice de-

scribed in paragraph (c)(1) of this section—

(i) The exact electronic address at which the information is posted; and

(ii) A statement that the institution will provide a paper copy of the information on request.

(d) **General disclosures for enrolled or prospective students.** An institution must make available to any enrolled student or prospective student through appropriate publications, mailings or electronic media, information concerning—

(1) Financial assistance available to students enrolled in the institution (pursuant to § 668.42).

(2) The institution (pursuant to § 668.43).

(3) The institution's retention rate as reported to the Integrated Postsecondary Education Data System (IPEDS). In the case of a request from a prospective student, the information must be made available prior to the student's enrolling or entering into any financial obligation with the institution.

(4) The institution's completion or graduation rate and, if applicable, its transfer-out rate (pursuant to § 668.45). In the case of a request from a prospective student, the information must be made available prior to the student's enrolling or entering into any financial obligation with the institution.

(5) The placement of, and types of employment obtained by, graduates of the institution's degree or certificate programs.

(i) The information provided in compliance with this paragraph may be gathered from—

(A) The institution's placement rate for any program, if it calculates such a rate;

(B) State data systems;

(C) Alumni or student satisfaction surveys; or

(D) Other relevant sources.

(ii) The institution must identify the source of the information provided in compliance with this paragraph, as well as any time frames and methodology associated with it.

(iii) The institution must disclose any placement rates it calculates.

(6) The types of graduate and professional education in which graduates of

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the institution's four-year degree programs enroll.

(i) The information provided in compliance with this paragraph may be gathered from—

(A) State data systems;

(B) Alumni or student satisfaction surveys; or

(C) Other relevant sources.

(ii) The institution must identify the source of the information provided in compliance with this paragraph, as well as any time frames and methodology associated with it.

(e) *Annual security report and annual fire safety report*— (1) *Enrolled students and current employees—annual security report and annual fire safety report*. By October 1 of each year, an institution must distribute to all enrolled students and current employees its annual security report described in § 668.46(b), and, if the institution maintains an on-campus student housing facility, its annual fire safety report described in § 668.49(b), through appropriate publications and mailings, including—

(i) Direct mailing to each individual through the U.S. Postal Service, campus mail, or electronic mail;

(ii) A publication or publications provided directly to each individual; or

(iii) Posting on an Internet Web site or an Intranet Web site, subject to paragraph (e)(2) and (3) of this section.

(2) *Enrolled students—annual security report and annual fire safety report*. If an institution chooses to distribute either its annual security report or annual fire safety report to enrolled students by posting the disclosure or disclosures on an Internet Web site or an Intranet Web site, the institution must comply with the requirements of paragraph (c)(2) of this section.

(3) *Current employees—annual security report and annual fire safety report*. If an institution chooses to distribute either its annual security report or annual fire safety report to current employees by posting the disclosure or disclosures on an Internet Web site or an Intranet Web site, the institution must, by October 1 of each year, distribute to all current employees a notice that includes a statement of the report's availability, the exact electronic address at which the report is posted, a brief description of the report's con-

tents, and a statement that the institution will provide a paper copy of the report upon request.

(4) *Prospective students and prospective employees—annual security report and annual fire safety report*. For each of the reports, the institution must provide a notice to prospective students and prospective employees that includes a statement of the report's availability, a description of its contents, and an opportunity to request a copy. An institution must provide its annual security report and annual fire safety report, upon request, to a prospective student or prospective employee. If the institution chooses to provide either its annual security report or annual fire safety report to prospective students and prospective employees by posting the disclosure on an Internet Web site, the notice described in this paragraph must include the exact electronic address at which the report is posted, a brief description of the report, and a statement that the institution will provide a paper copy of the report upon request.

(5) *Submission to the Secretary—annual security report and annual fire safety report*. Each year, by the date and in a form specified by the Secretary, an institution must submit the statistics required by §§ 668.46(c) and 668.49(c) to the Secretary.

(6) *Publication of the annual fire safety report*. An institution may publish its annual fire safety report concurrently with its annual security report only if the title of the report clearly states that the report contains both the annual security report and the annual fire safety report. If an institution chooses to publish the annual fire safety report separately from the annual security report, it must include information in each of the two reports about how to directly access the other report.

(f) *Prospective student-athletes and their parents, high school coach and guidance counselor—report on completion or graduation rates for student-athletes*.

(1)(i) Except under the circumstances described in paragraph (f)(1)(ii) of this section, when an institution offers a prospective student-athlete athletically related student aid, it must provide to the prospective student-athlete,

and his or her parents, high school coach, and guidance counselor, the report produced pursuant to § 668.48(a).

(ii) An institution's responsibility under paragraph (f)(1)(i) of this section with reference to a prospective student athlete's high school coach and guidance counselor is satisfied if—

(A) The institution is a member of a national collegiate athletic association;

(B) The association compiles data on behalf of its member institutions, which data the Secretary determines are substantially comparable to those required by § 668.48(a); and

(C) The association distributes the compilation to all secondary schools in the United States.

(2) By July 1 of each year, an institution must submit to the Secretary the report produced pursuant to § 668.48.

(g) *Enrolled students, prospective students, and the public—report on athletic program participation rates and financial support data.* (1)(i) An institution of higher education subject to § 668.47 must, not later than October 15 of each year, make available to enrolled students, prospective students, and the public, the report produced pursuant to § 668.47(c). The institution must make the report easily accessible to students, prospective students, and the public and must provide the report promptly to anyone who requests it.

(ii) The institution must provide notice to all enrolled students, pursuant to paragraph (c)(1) of this section, and prospective students of their right to request the report described in paragraph (g)(1) of this section. If the institution chooses to make the report available by posting the disclosure on an Internet website or an Intranet website, it must provide in the notice the exact electronic address at which the report is posted, a brief description of the report, and a statement that the institution will provide a paper copy of the report on request. For prospective students, the institution may not use an Intranet website for this purpose.

(2) An institution must submit the report described in paragraph (g)(1)(i) of this section to the Secretary within 15 days of making it available to students, prospective students, and the public.

(h) *Loan repayment warning for proprietary institutions—(1) Calculation of loan repayment rate.* For each award year, the Secretary calculates a proprietary institution's loan repayment rate, for the cohort of borrowers who entered repayment on their FFEL or Direct Loans at any time during the two-year cohort period, using the methodology in § 668.413(b)(3), provided that, for the purpose of this paragraph (h)—

(i) The reference to "program" in § 668.413(b)(3)(vi) is read to refer to "institution";

(ii) "Award year" means the 12-month period that begins on July 1 of one year and ends on June 30 of the following year;

(iii) "Borrower" means a student who received a FFEL or Direct Loan for enrolling in a gainful employment program at the institution; and

(iv) "Two-year cohort period" is defined as set forth in § 668.402.

(2) *Issuing and appealing loan repayment rates.* (i) For each award year, the Secretary notifies an institution of its final loan repayment rate.

(ii) If an institution's final loan repayment rate shows that the median borrower has not either fully repaid all FFEL or Direct Loans received for enrollment in the institution or made loan payments sufficient to reduce by at least one dollar the outstanding balance of each of the borrower's FFEL or Direct Loans received for enrollment in the institution—

(A) Using the calculation described in paragraph (h)(4)(ii) of this section, the institution may submit an appeal to the Secretary within 15 days of receiving notification of its final loan repayment rate; and

(B) The Secretary will notify the institution if the appeal is—

(1) Granted and the institution qualifies for an exemption from the warning requirement under paragraph (h)(4) of this section; or

(2) Not granted, and the institution must comply with the warning requirement under paragraph (h)(3) of this section.

(3) *Loan repayment warning—(i) Promotional materials.* (A) Except as provided in paragraph (h)(4) of this section, for any award year in which the institution's loan repayment rate

shows that the median borrower has not either fully repaid, or made loan payments sufficient to reduce by at least one dollar the outstanding balance of, each of the borrower's FFEL or Direct Loans received for enrollment in the institution, the institution must, in all promotional materials that are made available to prospective or enrolled students by or on behalf of the institution, include a loan repayment warning in a form, place, and manner prescribed by the Secretary in a notice published in the FEDERAL REGISTER. The warning language must read: "U.S. Department of Education Warning: A majority of recent student loan borrowers at this school are not paying down their loans," unless stated otherwise by the Secretary in a notice published in the FEDERAL REGISTER. Before publishing that notice, the Secretary may conduct consumer testing to help ensure that the warning is meaningful and helpful to students.

(B) Promotional materials include, but are not limited to, an institution's Web site, catalogs, invitations, flyers, billboards, and advertising on or through radio, television, video, print media, social media, or the Internet.

(C) The institution must ensure that all promotional materials, including printed materials, about the institution are accurate and current at the time they are published, approved by a State agency, or broadcast.

(i) *Clarity of warning.* The institution must ensure that the warning is prominent, clear, and conspicuous. The warning is not prominent, clear, and conspicuous if it is difficult to read or hear, or placed where it can be easily overlooked. In written materials, including email, Internet advertising and promotional materials, print media, and other advertising or hard-copy promotional materials, the warning must be included on the cover page or home page and any other pages with information on a program of study and any pages with information on costs and financial aid. For television and video materials, the warning must be both spoken and written simultaneously. The Secretary may require the institution to modify its promotional materials, including its Web site, if the

warning is not prominent, clear, and conspicuous.

(4) *Exemptions.* An institution is not required to provide a warning under paragraph (h)(3) of this section based on a final loan repayment rate for that award year if—

(i) That rate is based on fewer than 10 borrowers in the cohort described in paragraph (h)(1) of this section; or

(ii) The institution demonstrates to the Secretary's satisfaction that not all of its programs constitute GE programs and that if the borrowers in the non-GE programs were included in the calculation of the loan repayment rate, the loan repayment rate would show that the median borrower has made loan payments sufficient to reduce by at least one dollar the outstanding balance of each of the borrower's FFEL or Direct Loans received for enrollment in the institution.

(i) *Financial protection disclosures—(1) General.* An institution must deliver a disclosure to enrolled and prospective students in the form and manner described in paragraph (i)(3), (4), and (5) of this section, and post that disclosure to its Web site as described in paragraph (i)(6) of this section, within 30 days of notifying the Secretary under § 668.171(h) of the occurrence of a triggering event or events identified pursuant to paragraph (i)(2) of this section. The requirements in this paragraph (i) apply for the 12-month period following the date the institution notifies the Secretary under § 668.171(h) of a triggering event or events identified under paragraph (i)(2).

(2) *Triggering events.* The Secretary will conduct consumer testing to inform the identification of events for which a disclosure is required. The Secretary will consumer test each of the events identified in § 668.171(c) through (g), as well as other events that result in an institution being required to provide financial protection to the Department, to determine which of these events are most meaningful to students in their educational decision-making. The Secretary will identify the triggering events for which a disclosure is required under paragraph (i)(1) in a document published in the FEDERAL REGISTER.

(3) *Form of disclosure.* The Secretary will conduct consumer testing to ensure the form of the disclosure is meaningful and helpful to students. The Secretary will specify the form and placement of the disclosure in a notice published in the FEDERAL REGISTER following the consumer testing.

(4) *Delivery to enrolled students.* An institution must deliver the disclosure required under this paragraph (i) to each enrolled student in writing by—

(i) Hand-delivering the disclosure as a separate document to the student individually or as part of a group presentation; or

(ii)(A) Sending the disclosure to the student's primary email address or delivering the disclosure through the electronic method used by the institution for communicating with the student about institutional matters; and

(B) Ensuring that the disclosure is the only substantive content in the message sent to the student under this paragraph unless the Secretary specifies additional, contextual language to be included in the message.

(5) *Delivery to prospective students.* An institution must deliver the disclosure required under this paragraph (i) to a prospective student before that student enrolls, registers, or enters into a financial obligation with the institution by—

(i) Hand-delivering the disclosure as a separate document to the student individually, or as part of a group presentation; or

(ii)(A) Sending the disclosure to the student's primary email address or delivering the disclosure through the electronic method used by the institution for communicating with prospective students about institutional matters; and

(B) Ensuring that the disclosure is the only substantive content in the message sent to the student under this paragraph unless the Secretary specifies additional, contextual language to be included in the message.

(6) *Institutional Web site.* An institution must prominently provide the disclosure required under this paragraph (i) in a simple and meaningful manner

on the home page of the institution's Web site.

(Approved by the Office of Management and Budget under control number 1845-0004)

(Authority: 20 U.S.C. 1092, 1094, 1099c)

[64 FR 59066, Nov. 1, 1999, as amended at 74 FR 55942, Oct. 29, 2009; 81 FR 76070, Nov. 1, 2016]

§ 668.42 Financial assistance information.

(a)(1) Information on financial assistance that the institution must publish and make readily available to current and prospective students under this subpart includes, but is not limited to, a description of all the Federal, State, local, private and institutional student financial assistance programs available to students who enroll at that institution.

(2) These programs include both need-based and non-need-based programs.

(3) The institution may describe its own financial assistance programs by listing them in general categories.

(4) The institution must describe the terms and conditions of the loans students receive under the Federal Family Education Loan Program, the William D. Ford Federal Direct Student Loan Program, and the Federal Perkins Loan Program.

(b) For each program referred to in paragraph (a) of this section, the information provided by the institution must describe—

(1) The procedures and forms by which students apply for assistance;

(2) The student eligibility requirements;

(3) The criteria for selecting recipients from the group of eligible applicants; and

(4) The criteria for determining the amount of a student's award.

(c) The institution must describe the rights and responsibilities of students receiving financial assistance and, specifically, assistance under the title IV, HEA programs. This description must include specific information regarding—

(1) Criteria for continued student eligibility under each program;

(2)(i) Standards which the student must maintain in order to be considered to be making satisfactory progress