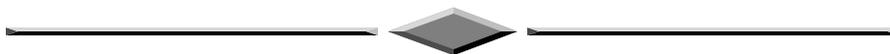


Effects of Official Cohort Default Rates



What are the effects of official cohort default rates?

The Higher Education Act of 1965, as amended (HEA), and the U.S. Department of Education (Department) regulations describe the sanctions that apply when a school's official cohort default rate(s) is at or above certain percentages. For cohort default rate purposes, a sanction is a specific restriction on a school's participation in the Title IV Student Financial Assistance Programs.

Please refer to pages 25 to 27 for additional information on the various sanctions associated with official cohort default rates.

The HEA and the Department's regulations also describe the benefits that apply when a school's official cohort default rate(s) is below certain percentages. For cohort default rate purposes, a benefit is provided in the form of a disbursement exemption.

Please refer to pages 32 and 33 for additional information on the various benefits associated with official cohort default rates.

What sanctions are associated with official cohort default rates?

The sanctions associated with official cohort default rates are:

- **initial loss**¹ of eligibility to participate in the:
 - ❖ FFEL Program;
 - AND/OR

¹ 34 CFR § 668.17(a)(3), 668.17(b), HEA § 435(a)(2), and HEA § 401(j)

Q . How does a school officially withdraw from participation in the FFEL Program and/or Direct Loan Program?

A . The process for withdrawing from the FFEL Program and/or Direct Loan Program is handled by the IPOS Case Management Team and the Direct Loan School Selection Team, respectively. For further information contact the:

- ◆ IPOS Case Management Team at 202-205-0183 for withdrawing from the **FFEL Program**;

AND/OR

- ◆ Direct Loan School Selection Team at 202-708-9951 for withdrawing from the **Direct Loan Program**.

- ❖ Direct Loan Program;
- AND
- ❖ Federal Pell Grant Program.

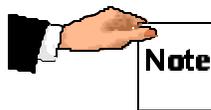
Initial loss of eligibility to participate in these programs occurs when a school's three most recent official cohort default rates (in this case FY 1995, FY 1996, and FY 1997) are equal to or greater than 25.0 percent.

OR

•• **extended loss²** of eligibility to participate in the:

- ❖ FFEL Program;
- AND/OR
- ❖ Direct Loan Program;
- AND
- ❖ Federal Pell Grant Program.

Extended loss of eligibility to participate in these programs occurs when a school lost FFEL Program and/or Direct Loan Program and Federal Pell Grant Program eligibility due to prior year official cohort default rates (in this case FY 1994, FY 1995, and FY 1996) AND the school's current year official cohort default rate (in this case FY 1997) is equal to or greater than 25.0 percent.



A school will not be subject to loss of Federal Pell Grant Program eligibility if a school officially withdrew (in writing) from the FFEL Program and/or Direct Loan Program on or before October 7, 1998 OR lost its eligibility to participate in the FFEL Program and/or Direct Loan Program on or before October 7, 1998 OR did not certify any FFEL Program and/or Direct Loan Program loans on or after July 7, 1998.

Q . Could a school that was not participating in the FFEL Program and/or Direct Loan Program on October 7, 1998, lose its eligibility to participate in the Federal Pell Grant Program if it subsequently participates in the FFEL Program and/or Direct Loan Program?

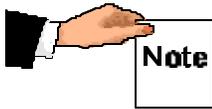
A . Yes. Only those schools that were not participating in the FFEL Program and/or Direct Loan Program on October 7, 1998, and remain out of the loan programs are exempt from the loss of Federal Pell Grant Program eligibility.

² 34 CFR § 668.17(a)(3), § 668.17(b), HEA § 435(a)(2), and HEA § 401(j)

OR

••

possible action to limit, suspend, and/or terminate (LS&T)³ a school's eligibility to participate in any or all Title IV Student Financial Assistance Programs. This occurs when a school's official cohort default rate is 40.1 percent or greater.



If a school is subject to an LS&T action based on its final cohort default rate, the school will be notified in writing of the intended action. If a school believes it has a basis to appeal its cohort default rate, it must follow the usual procedures set forth in the "Information for Schools on Appeals" section beginning on page 55. A school cannot wait to appeal its cohort default rate until it has been notified that the Department is pursuing an LS&T action.

What are the consequences associated with sanctions based on official cohort default rates?

A school subject to:

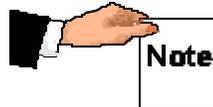
••

initial or extended loss of FFEL Program and/or Direct Loan Program and Federal Pell Grant Program eligibility loses its eligibility to participate in that program for the remainder of the fiscal year in which the school became subject to the loss and for two subsequent fiscal years.⁴

Example: If a school is notified that it is subject to initial or extended loss of FFEL Program and/or Direct Loan Program and Federal Pell Grant Program eligibility in FY 1999, the school would lose its eligibility for the remainder of FY 1999 and for the next two fiscal years (i.e., FY 2000 and FY 2001). Therefore, the school would remain ineligible through September 30, 2001.

³ 34 CFR § 668.17(a)(2)

⁴ 34 CFR § 668.17(b)(3)(i) and (ii)



If the Department fails to release official cohort default rates by the end of the fiscal year (i.e. September 30), the Department will determine a school's period of loss as if the cohort default rates were released on September 30.

••

LS&T may have its eligibility to participate in any or all Title IV Student Financial Assistance Programs limited, suspended, and/or terminated.

Can a school appeal a notice of loss of eligibility resulting from official cohort default rates?

Yes, a school can appeal the Department's notice of loss of eligibility to participate in the FFEL Program and/or Direct Loan Program and Federal Pell Grant Programs. If eligible, a school may appeal based on:

- a request for adjustment;
- allegations of erroneous data;
- allegations of improper loan servicing and collection;
- AND/OR
- exceptional mitigating circumstances.

However, in order to submit an appeal on any of these bases, a school must meet the eligibility criteria as described in the "Information for Schools on Appeals" section of this Guide.

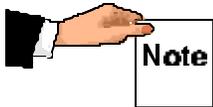


The appeal procedures described in the "Information for Schools on Appeals" section beginning on page 55 provide the only methods for a school other than a Historically Black College and University, Tribally Controlled College, and Navajo College to appeal the Department's determination of the school's official cohort default rates. In other words, if a school fails to submit a timely cohort default rate appeal or submits an unsuccessful cohort default rate appeal, the Department's determination on the school's official cohort default rates is final.

For more information on submitting cohort default rate appeals, please refer to the sections entitled “Request for Adjustment,” “Erroneous Data Appeal,” “Improper Loan Servicing and Collection Appeal,” and “Exceptional Mitigating Circumstances Appeal” beginning on pages 65, 77, 111, and 141, respectively.

As of July 1, 1999, a Historically Black College and University, Tribally Controlled College, and Navajo College subject to the loss of eligibility to participate in the FFEL Program and/or Direct Loan Program and Federal Pell Grant Program due to cohort default rates that are equal to or greater than 25.0 percent for the three most recent fiscal years may continue to participate in the programs if the school:

- submits an acceptable default management plan;
 - engages an independent third-party to assist in implementing the plan;
- AND
- demonstrates that the plan has been successfully implemented and the school’s cohort default rate will be 24.9 percent or lower by July 1, 2002.



The Department has issued interim guidance dated April 1999 that clarifies these requirements. For a copy of this guidance, contact the Department’s Default Management Division at 202-708-9396 or at OSFA_IPOS_Default_Management_Division@ed.gov.

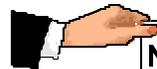
What are the consequences of an unsuccessful cohort default rate appeal?

In addition to losing eligibility to participate in the FFEL Program and/or Direct Loan Program and Federal Pell Grant Program, Section 435(a)(2)(A)(iii) of the HEA requires a school that submits an unsuccessful cohort default rate appeal to pay the Secretary an amount equal to the amount of interest and special allowance, reinsurance, and any other related or similar payments which the Secretary is (or could be) obligated to pay as a result of any FFEL Program and Direct Loan Program loans certified/delivered and originated/disbursed beginning 30 calendar days after the school received notification of its cohort default rate until it withdraws the cohort default rate appeal or receives notification that the cohort default rate appeal was unsuccessful.⁵

⁵ HEA § 435(a)(2)(A)(iii)

Q . If a school loses FFEL Program and/or Direct Loan Program and Federal Pell Grant Program eligibility, can it continue to disburse funds?

A . A school that loses FFEL Program and/or Direct Loan Program and Federal Pell Grant Program eligibility may continue to disburse funds after notification of the loss of the school’s eligibility if the criteria at 34 CFR § 668.26 (c) and (d) are met.

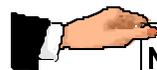
**Note**

At the time this Guide went to print, the final regulations implementing changes to the cohort default rate process made by the 1998 Amendments to the HEA had not yet been finalized. Therefore, a school must consult the final regulations to ensure it meets all legal requirements.

When does the school's loss of eligibility to participate in the FFEL Program and/or Direct Loan Program and Federal Pell Grant Program become effective?

The effective date of the school's loss depends on whether the school appeals.

- **If a school does not appeal**, a school's participation in the FFEL Program and/or Direct Loan Program and Federal Pell Grant Program ends 30 calendar days after the date the school first receives notice that it is subject to the loss of eligibility.⁶
- **If a school timely appeals** its loss of eligibility to participate in the FFEL Program and/or Direct Loan Program and Federal Pell Grant Program, the school remains eligible to participate in the FFEL Program and/or Direct Loan Program and Federal Pell Grant Program until the school's receipt of the Department's final decision on the school's appeal(s) that indicates that the school's appeal(s) was unsuccessful.

**Note**

If a school timely appeals its loss of eligibility to participate in the FFEL Program and/or Direct Loan Program and Federal Pell Grant Program **and is successful**, the Department will withdraw the school's loss of eligibility notification.

Q . How does a school officially reapply for participation in the FFEL Program and/or Direct Loan Program and Federal Pell Grant Program?

A . To reapply for participation in the FFEL Program and/or Direct Loan Program and Federal Pell Grant Program, contact the:

- ◆ IPOS Case Management Team at (202) 205-0183 for participation in the **FFEL Program and Federal Pell Grant Program**;
- AND/OR
- ◆ Direct Loan School Selection Team at (202) 708-9951 for participation in the **Direct Loan Program**.

⁶ 34 CFR 668.17(b)(1), (b)(2), and (b)(3)

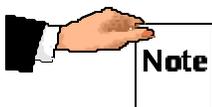
Are there any exceptions to the sanctions associated with official cohort default rates?

In addition to being exempt from sanctions due to a successful cohort default rate appeal, a school may not be subject to certain sanctions despite its cohort default rates if —

- a school has an **unofficial cohort default rate** as described in the "Cohort Default Rates" section on page 11. An unofficial cohort default rate will not be used to end a school's eligibility to participate in any Title IV Student Financial Assistance Programs.
- a school has an **average cohort default rate with less than five borrowers entering repayment in any of the three most recent cohort periods**. A school that has an average cohort default rate with less than five borrowers entering repayment in any of the three most recent cohort periods will NOT be subject to an LS&T action based on the average cohort default rate.⁷

AND/OR

- a school has submitted, prior to the release of the official cohort default rates, a successful **participation rate index challenge** based on its most recent draft cohort default rate (in this case FY 1997) or on either of its two previous official cohort default rates (in this case FY 1995 or FY 1996). A school that has submitted a successful participation rate index challenge based on its draft cohort default rate or two previous official cohort default rates will NOT be subject to initial and/or extended loss of its eligibility to participate in the FFEL Program and/or Direct Loan Program and Federal Pell Grant Program.



If a school's successful participation rate index challenge is based on its FY 1995 or FY 1996 **official** cohort default rate, the school's FY 1995 or FY 1996 official cohort default rate will not be used in the future to determine if the school is subject to the loss of loan program eligibility under § 435(a)(2) of the HEA.

⁷ Preamble to Student Assistance General Provisions, Final Rule dated December 1, 1995 (60 Federal Register 61764)

If a school's successful participation rate index challenge is based on its FY 1997 **draft** cohort default rate, the school's FY 1997 official cohort default rate will be used to determine if the school is subject to the loss of loan program eligibility under § 435(a)(2) of the HEA **after the release of the FY 1998 official cohort default rates**, if the school's FY 1998 official cohort default rate is equal to or greater than 25.0 percent.

Are there any benefits for schools with low cohort default rates?

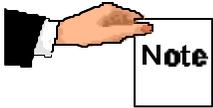
Yes. There are two types of benefits that are available to certain schools with cohort default rates that are below established thresholds.

- All schools for which the school's **three most recent (in this case FY 1995, FY 1996, and FY 1997) official cohort default rates are 9.9 percent or lower** may:
 - ❖ make **single disbursements** to a student if that student's period of enrollment is equal to or less than:
 - one semester;
 - one trimester;
 - one quarter;
 - OR
 - four months,
 - AND
 - ❖ may choose not to **delay disbursements for first time borrowers.**
- Schools that are certifying/originating a loan to cover the cost of attendance in a **study abroad program where the school's most recent official cohort default rate is 4.9 percent or less** may:

- ❖ make a **single disbursement** to the student studying abroad;

AND

- ❖ may decide not to **delay the disbursement for first time borrowers studying abroad.**



At the time this Guide went to print, the final regulations implementing this change to the cohort default rate process which was made by the 1998 Amendments to the HEA had not yet been finalized. Therefore, a school must consult the final regulations to ensure it meets all legal requirements.

