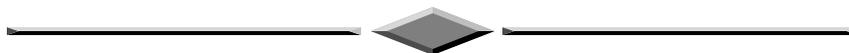


# Cohort Default Rate Effects



## Are there any consequences associated with draft cohort default rates?

It is important to note that there are not any consequences associated with **draft** cohort default rates. However, there are consequences associated with **official** cohort default rates. Since the draft cohort default rate data form the basis of the official cohort default rates, and since a school may be unable to appeal or request an adjustment of its official cohort default rate if it fails to challenge its draft cohort default rate data, it is critical that a school review its draft cohort default rate data when it is released by the U.S. Department of Education (Department) to ensure the cohort default rate data's accuracy.

## Are there any consequences associated with official cohort default rates?

Yes, the Higher Education Act of 1965, as amended (HEA), and the Department's 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 the next page 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 an exemption from certain loan disbursement requirements.

Please refer to pages 45 and 46 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<sup>1</sup>** of eligibility to participate in the:
  - ❖ Federal Family Education Loan (FFEL) Program;
  - ❖ William D. Ford Federal Direct Loan (Direct Loan) Program;
  - AND/OR
  - ❖ 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 1996, FY 1997, and FY 1998) are 25.0 percent or greater.

OR

- **extended loss<sup>2</sup>** of eligibility to participate in the:
  - ❖ FFEL Program;
  - ❖ Direct Loan Program;
  - AND/OR
  - ❖ Federal Pell Grant Program.

Extended loss of eligibility to participate in these programs occurs when a school lost FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program eligibility due to its prior years' official cohort default rates (in this case FY 1995, FY 1996, and FY 1997) AND the school's current year official cohort default rate (in this case FY 1998) is 25.0 percent or greater.

**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 Case Management and Oversight Office and Direct Loan Operations, respectively. For further information contact the:

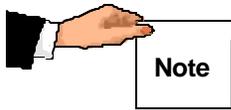
- ◆ Case Management and Oversight Office at (202) 260-3616 for withdrawing from the **FFEL Program**;

AND/OR

- ◆ Direct Loan Operations at (202) 708-9951 for withdrawing from the **Direct Loan Program**.

<sup>1</sup> 34 CFR Section 668.17(a)(3), 668.17(b), HEA Section 435(a)(2), and HEA Section 401(j)

<sup>2</sup> 34 CFR Section 668.17(a)(3), 668.17(b), HEA Section 435(a)(2), and HEA Section 401(j)



A school is not subject to the loss of Federal Pell Grant Program eligibility due to official cohort default rates that equal or exceed 25.0 percent for three years if, prior to October 7, 1998, a school officially withdrew (in writing) from or lost its eligibility to participate in the FFEL Program and/or Direct Loan Program and has not subsequently participated in the programs. In addition, a school is not subject to the loss of Federal Pell Grant Program eligibility if it did not certify any FFEL Program and/or originate any Direct Loan Program loans on or after July 7, 1998.

AND/OR

••

**possible action to limit, suspend, and/or terminate (LS&T)<sup>3</sup>** 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.

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

The consequences associated with sanctions based on official cohort default rates include:

••

**loss of eligibility to participation in the FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program** for the remainder of the fiscal year in which the school was notified that it was subject to initial or extended loss of eligibility to participate in those programs and for two subsequent fiscal years.<sup>4</sup>

**Example:** If a school is notified that it is subject to initial or extended loss of FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program eligibility in FY 2000, the school would lose its eligibility for the remainder of FY 2000

<sup>3</sup> 34 CFR Section 668.17(a)(2)

<sup>4</sup> 34 CFR Section 668.17(b)(3)(i) and (ii)

**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.

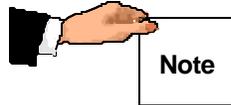
**Q.** Can a school that is subject to possible action to LS&T its participation in any or all of its Title IV Student Financial Assistance Programs, avoid the possible loss of the Federal Pell Grant Program eligibility if it officially withdrew in writing from the FFEL Program and/or Direct Loan Program prior to October 7, 1998?

**A.** No, the exemption for the loss of Federal Pell Grant Program eligibility only applies to a school that is subject to initial or extended loss of eligibility due to official cohort default rates that are 25.0 percent or greater for the three most recent years.

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

**A.** A school that loses FFEL Program, Direct Loan Program, and/or 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 Section 668.26 (d) are met.

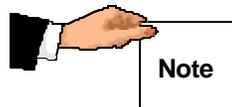
and for the next two fiscal years (i.e., FY 2001 and FY 2002). Therefore, the school would remain ineligible through September 30, 2002.



If the Department fails to release official cohort default rates by the end of the fiscal year (i.e., by September 30), the Department will calculate a school's period of loss as if the school was notified of its cohort default rate on September 30.<sup>5</sup>

••

**possible loss of a school's eligibility to participate in any or all Title IV Student Financial Assistance Programs** as a result of an LS&T action taken against a school that has an official cohort default rate that is 40.1 percent or greater.



The consequences associated with an LS&T action are determined in proceedings under Subpart G of 34 CFR Section 668.

## Can a school appeal a notice of a sanction associated with official cohort default rates?

Yes, if a school is notified that it is subject to sanctions due to its official cohort default rates, a school may appeal that notice if it adheres to the established time frames and procedures as outlined in the "Information for Schools on Adjustments and Appeals" section beginning on page 83.

••

A school subject to **initial or extended** loss of eligibility to participate in the FFEL Program, Direct Loan Program and/or Federal Pell Grant Program can submit the following types of adjustments/appeals:

- ❖ uncorrected data adjustment (formerly called a request for adjustment);
- ❖ new data adjustment;

<sup>5</sup> 64 Fed. Reg. 58975 (November 1, 1999) (Preamble to Final Rule)

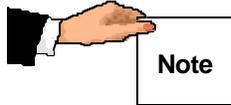
- ❖ erroneous data appeal;
- ❖ improper loan servicing and collection appeal;  
AND/OR
- ❖ exceptional mitigating circumstances appeal based on the school's:
  - participation rate index,
  - economically disadvantaged and placement rates,
  - economically disadvantaged and completion rates,
  - average cohort default rates,  
and/or
  - low number of borrowers.

If the appeal is successful, the Department will withdraw its notice that the school is subject to initial or extended loss of eligibility to participate in the FFEL Program, Direct Loan Program and/or Federal Pell Grant Program.

- A school subject to a possible **LS&T** action due to its official cohort default rate can submit the following types of adjustment/appeals:
    - ❖ uncorrected data adjustment;
    - ❖ new data adjustment;
    - ❖ erroneous data appeal;
    - ❖ improper loan servicing and collection appeal;  
AND/OR
    - ❖ exceptional mitigating circumstances appeal based on the school's
      - economically disadvantaged and placement rates
- OR

- economically disadvantaged and completion rates

If the appeal is successful, the Department's Default Management Division will NOT refer the school to the Department's Administrative Actions and Appeals Division for further action.



**Note**

If a school with an official cohort default rate of 40.1 percent or greater believes it has a basis to request an adjustment of or appeal that cohort default rate, it must follow the adjustment/appeal procedures set forth in the Department's regulations and this Guide. A school cannot wait to request an adjustment of or appeal its cohort default rate until after it has been notified that the Department has initiated an LS&T action.

### **Do cohort default rate sanctions apply to Historically Black Colleges or Universities, Tribally Controlled Community Colleges, and Navajo Community Colleges?**

As of July 1, 1999, an Historically Black College or University, Tribally Controlled Community College, or Navajo Community College, as defined in regulations, which is subject to the loss of eligibility to participate in the FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program due to cohort default rates that are 25.0 percent or greater for the three most recent fiscal years may continue to participate in those programs if the school:<sup>6</sup>

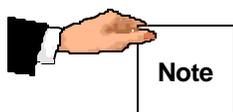
- timely submits an acceptable default management plan;
  - timely engages an independent third-party to assist in implementing the default management plan;
- AND
- demonstrates, on a yearly basis, that the plan has been successfully implemented and that the school's cohort default rate will be less than 25.0 percent by July 1, 2002.

<sup>6</sup> 34 CFR Section 668.17(k), HEA Section 435(a)(5)

## If a school is subject to sanctions due to its official cohort default rates, when does the loss of eligibility associated with the sanction take effect?

The effective date of a school's loss of eligibility depends on the sanction to which the school is subject AND/OR whether the school submits an eligible and timely adjustment/appeal.

- If a school, subject to initial or extended loss of eligibility to participate in the FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program –
  - ❖ **Does not submit an eligible and/or timely adjustment/appeal**, the school's participation in the FFEL Program, Direct Loan Program, and/or 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.<sup>7</sup>
  - ❖ **Timely submits an eligible adjustment/appeal** of its loss of eligibility to participate in the FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program the school remains, at its option, eligible to participate in the FFEL Program, Direct Loan Program, and Federal Pell Grant Program until the school's receipt of the Department's final decision on the school's adjustment/appeal(s) that indicates that the school's adjustment/appeal(s) **was unsuccessful**.



**If a school timely submits an eligible adjustment/appeal** of its loss of eligibility to participate in the FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program and the adjustment/appeal **is successful**, the Department will withdraw the notification that the school is subject to a loss of eligibility.

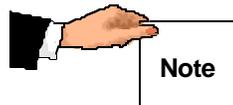
<sup>7</sup> 34 CFR Section 668.17(b)(1), (b)(2), and (b)(3)

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

**A.** Once the period of ineligibility to participate in the loan/grant programs has expired, in order to reapply for participation in the FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program, a school should contact the:

- ◆ Case Management and Oversight Office at (202) 260-3616 for participation in the **FFEL Program and Federal Pell Grant Program**;
- AND/OR
- ◆ Direct Loan Operations at (202) 708-9951 for participation in the **Direct Loan Program**.

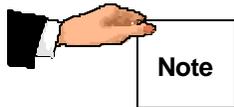
- If a school, subject to a possible LS&T action –
  - ❖ **Does not submit an eligible and/or timely adjustment/appeal**, the Department's Default Management Division will refer the school to the Department's Administrative Actions and Appeals Division. The Department's Administrative Actions and Appeals Division will decide whether to initiate an LS&T action against the school. If an LS&T action is initiated against the school, the school's eligibility to participate in the Title IV Student Financial Assistance Programs will be decided in accordance with the 34 CFR Section 668 Subpart G.
  - ❖ **Timely submits an eligible adjustment/appeal** of the possible LS&T action, the Department's Default Management Division will not refer the school for further action with regard to the school's possible LS&T until the school's receipt of the Department's final decision on the school's adjustment/appeal that indicates the school's **adjustment/appeal was unsuccessful**.



If a school **timely submits an eligible adjustment/appeal** of the possible LS&T action and the **appeal is successful**, the Department's Default Management Division will not refer the school to the Department's Administrative Actions and Appeals Division for further action.

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

In addition to losing eligibility to participate in the FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program, if a school is **subject to initial loss of eligibility** to participate in the FFEL Program and/or Direct Loan Program and the school's adjustment/appeal of that loss is unsuccessful, the **school will be liable for certain costs** associated with FFEL Program loans certified and delivered and Direct Loan Program loans originated and disbursed by the school. A school's period of liability with regard to these costs begins 30 calendar days after the school receives notice that it is subject to initial loss of eligibility to participate in the FFEL Program and/or Direct Loan Program. The period of liability ends upon the earlier of the withdrawal of the school's adjustment/appeal, the resolution of the school's adjustment/appeal, or the 45<sup>th</sup> calendar day after the date the school submitted its completed adjustment/appeal to the Secretary for review.<sup>8</sup>



A school may avoid a liability associated with an unsuccessful cohort default rate adjustment/appeal if the school chooses not to certify/originate loans during the liability period.

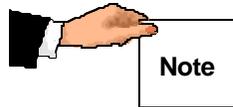
## Are there any exceptions to the sanctions associated with official cohort default rates?

In addition to being exempt from sanctions due to a successful cohort default rate adjustment/appeal, a school may avoid certain sanctions despite its cohort default rates if –

- The school has an **unofficial cohort default rate** as described in the "Cohort Default Rate Calculation" section on page 18. An unofficial cohort default rate is not used to end a school's eligibility to participate in any Title IV Student Financial Assistance Programs.

<sup>8</sup> HEA Section 435(a)(2)(A) and 34 CFR Section 668.17(b)(6)(ii)

- The 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 its cohort default rate.<sup>9</sup>

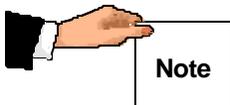


Note

This exception does not apply to those schools subject to initial or extended loss to participate in the FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program.

AND/OR

- The school has submitted, within 30 calendar days of receiving its FY 1998 draft cohort default rate, a successful **participation rate index challenge** based on its most recent draft cohort default rate or on either of its two previous official cohort default rates. A school that submits a successful participation rate index challenge based on its most recent draft cohort default rate or either of its two previous official cohort default rates will NOT be subject to initial or extended loss of its eligibility to participate in the FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program.



Note

A successful participation rate index challenge based on a school's **FY 1998 draft cohort default rate** will only alleviate a potential loss of eligibility based on the school's FY 1996, FY 1997, and FY 1998 official cohort default rates. Therefore, the school could subsequently be subject to the loss of eligibility to participate in the loan and grant programs due to FY 1997, FY 1998, and FY 1999 official cohort rates that are 25.0 percent or greater. However, if the Department determines that the school's participation rate index is successful based on its **FY 1998 official cohort default rate**, the earliest the school could be subject to the loss of eligibility to participate in the loan and grant programs due to its three most recent official cohort default rates is with the release of the FY 2001 official cohort default rates.

**Q.** What is a participation rate index?  
**A.** A participation rate index is the percentage of a school's students that obtain FFEL Program and/or Direct Loan Program loans multiplied by the school's cohort default rate.  
  
 Please refer to the "Participation Rate Index Appeal" section for additional information on calculating a participation rate index.

<sup>9</sup> 60 Fed. Reg. 61760, 61764 (December 1, 1995) (Preamble to Final Rule)

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

Yes, there are two types of benefits that are available to certain schools with official cohort default rates that are below certain thresholds.

- Any school whose **three most recent official cohort default rates are less than 10.0 percent** may:<sup>10</sup>
  - ❖ deliver/disburse loan proceeds to a student in a **single installment** if that student's loan period is equal to or less than:
    - one semester;
    - one trimester;
    - one quarter;

OR

  - for non-term-based schools or schools with non-standard terms, four months,

AND

  - ❖ may choose **not to delay the delivery/disbursement** of the first installment of loan proceeds for first-year first-time borrowers.
- A school whose **most recent official cohort default rate is less than 5.0 percent** and is an eligible home institution that is certifying/originating a loan to cover the cost of attendance in a **study abroad program** may:<sup>11</sup>
  - ❖ deliver/disburse loan proceeds to the student studying abroad (regardless of the length of the student's loan period) in a **single installment**;

AND

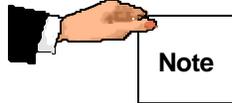
<sup>10</sup> HEA Section 428(G)(a)(3) and (b)(1), 34 CFR Section 682.603(g), 682.604(c)(5)(i), 682.604(c)(10)(i), 685.301(b)(8), 685.303(b)(4)

<sup>11</sup> HEA Section 428(G)(e), 34 CFR Section 682.603(g), 682.604(c)(5)(ii), 682.604(c)(10)(ii), 685.301(b)(8), 685.303(b)(4)

**Q.** Can a school that is an eligible home institution that certifies/originates loans to cover the cost of attendance in a study abroad program make single and/or non-delayed disbursements based on official cohort default rates that are less than 10.0 percent for the three most recent years?

**A.** Yes, eligible home institutions certifying/originating loans to cover the cost of attendance in study abroad programs can make single and/or non-delayed disbursements based on official cohort default rates that are less than 10.0 percent for the three most recent years.

- ❖ choose **not to delay the delivery/ disbursement** of the first installment of loan proceeds for first-year first-time borrowers studying abroad.



Schools must cease certifying/originating loans based on any of these exemptions beginning 30 calendar days after receiving notice from the Department of a cohort default rate that causes the school to no longer meet the established thresholds.