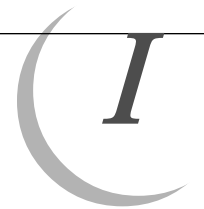


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# Introduction



*The purpose of this publication is to describe how a school becomes eligible to participate in the Student Financial Assistance (SFA) Programs and to explain the administrative and fiscal requirements of SFA Program participation. In addition, this publication discusses other issues relevant to the general administration of the SFA Programs.*

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**T**his introduction provides a brief overview of each chapter and lists the major changes to the content of each.

Section 492 of the Higher Education Act requires the Department to obtain input from the financial aid community in the development of proposed regulations for the SFA Programs. The Department is obtaining this input through regional meetings and through a process called “negotiated rulemaking.”

In negotiated rulemaking, the Department meets with representatives of many areas of the financial aid community, such as students, schools, and guaranty agencies, to obtain advice and recommendations for effective implementation through regulation of SFA Program requirements.

Most of the new statutory provisions of the Amendments of 1998, Public Law 105-244 (the Amendments of 1998) are subject to the requirements of the negotiated rulemaking process. At the time this Handbook goes to print, the Department is in the middle of that process. As a result, guidance for implementation of these provisions of the Amendments of 1998 is under discussion and is not available for this publication. Interim guidance may be issued on the Department’s “Information for Financial Aid Professionals” web site after these provisions are discussed further with the higher education community during the negotiated rulemaking process.

This publication does contain summaries of the provisions of the Amendments of 1998 that affect institutional eligibility and participation in the SFA Programs. These items are marked by the following symbol:



New information and clarifications of existing provisions are indicated with the following symbols:



**Major Changes by Chapter:**

***Chapter 1: Institutional and Program Eligibility***

Chapter 1 explains the statutory definitions for eligible institutions and program eligibility requirements.

- The Amendments of 1998 made the following changes that effect this chapter:
  - △ The eligible institution definitions are consolidated in the law.
  - △ Schools are required to provide evidence of their authority to operate in a state.
  - △ Student eligibility is extended to some home-schooled students.
  - △ Clarification of the definition of a branch campus is provided.
  - △ The percentage of revenue from the SFA Programs that a proprietary school may derive is changed from 85% to 90%.
  - △ The Incarcerated Student Limitation waiver is expanded.
  - △ An exemption from bankruptcy provision for some schools that provide health care services are added.
  - △ Requirements for foreign medical schools now apply to foreign veterinary schools.
- The effect of the Solomon-Pombo Amendments on the SFA Programs is discussed.

***Chapter 2: General Participation Requirements***

Chapter 2 is an overview of the general requirements for SFA Program participation.

- The Amendments of 1998 made the following changes that effect this chapter:
  - △ An exemption is added for some schools from the required submission of a default management plan.
  - △ The requirement that a school submit information related to athletically related student aid is moved, with some modifications, from the Program Participation Agreement section of the law to the Equity in Athletics section of the law.
  - △ Schools are required to make a good faith effort to distribute voter registration forms unless the school is in a state that has in effect the motor vehicle registration provision of the National Voter Registration Act.
  - △ Clarification that a school must provide a copy of its contract with a third-party servicer only upon request is provided.

### ***Chapter 3: Administrative Capability***

Chapter 3 discusses the requirements a school must meet to demonstrate that it is administratively capable of participating in the SFA Programs.

- Information is included on Action Letter GEN-97-11, published October 1997, that provides additional guidance on the implementation of the electronic processes requirements.
- The Amendments of 1998 made the following changes that effect this chapter:
  - △ The Department must notify schools, guaranty agencies, lenders, interested software providers and others of software and hardware requirements by December 1 prior to the beginning of the award year.
  - △ An exemption is provided for some schools from required submission of a default management plan.
  - △ A school is ineligible to participate in the Pell Grant Program if it loses eligibility to participate in the FFEL or the Direct Loan programs due to high default rates.
- Information is provided on the Department's "fax broadcast" service.

### ***Chapter 4: Financial Responsibility***

Chapter 4 describes the financial responsibility requirements for all schools participating in the SFA Programs.

- The Amendments of 1998 made the following changes that effect this chapter:
  - △ The criteria used to determine the financial responsibility of a school is revised to be based on whether it meets certain ratios that demonstrate financial responsibility. Previous criteria required the Department to consider operating losses, net worth, asset-to-liabilities ratios, or operating fund deficits.
  - △ Public schools are included with for-profit and nonprofit institutions with respect to taking into consideration differences in generally accepted accounting principles.
  - △ The Department is permitted to determine what third-party financial guarantees are acceptable in order for a school to be considered financially responsible even though it failed to meet other mandated measures of financial responsibility.
- This chapter includes a discussion of the November 25, 1997 final regulations that substantially revised the financial responsibility requirements.

### ***Chapter 5: Cash Management***

Cash management rules are discussed in Chapter 5.

- Final regulations (the “financial responsibility regulations) published on November 25, 1997 added the cash monitoring payment method. This new payment method is discussed here.
- This chapter provides information from “Dear Colleague” letter P-98-5, which invited schools to consider volunteering to be the first participants in the just-in-time payment method by participating in a pilot program.
- The Department has converted to the Education Central Automated Processing System.
- The Amendments of 1998 provide exemptions, under certain circumstances, to schools with low default rates from multiple disbursement requirements and the 30-day delay requirements.
- Clarification on the definition and handling of SFA credit balances is provided.

### ***Chapter 6: Refunds and Repayments***

Chapter 6 explains how SFA Program funds are handled for students who withdraw from school.

- The Amendments of 1998 changed substantially the way funds paid toward a student’s education are to be handled when a recipient of SFA Program funds withdraws from school. Schools are not required to implement these new provisions until October 7, 2000. However, a school may choose to implement the new provisions prior to that date. This change to the law is discussed here.
- The Amendments of 1998 allow the Department to assess a penalty, equivalent to the penalty applicable to nonpayment of taxes, for a willful failure to pay a refund.
- Clarification is provided on the definition of institutional charges. This clarification was published in a Policy Bulletin that was published on the Information for Financial Aid Professionals (IFAP) web site on January 7, 1999.
- Clarification is provided on the definition of “aid received,” including a discussion of institutional scholarships and loans.
- The requirements of the cash management regulations for the treatment of excused absences now apply, with slight modification, to the calculation of refunds.
- The Department has determined that a school may use its own funds to eliminate remaining Direct Loan and Perkins Loan balances. A school was already permitted to use its own funds to eliminate remaining FFEL balances.

## ***Chapter 7: Consumer Information***

Chapter 7 provides information on the requirements for the consumer information that a school must provide to students, the Department, and others.

- The Amendments of 1998 made the following changes that effect this chapter:

### ***Basic Consumer Information Requirements***

- △ A school may use electronic media to provide required consumer information to students.
- △ Each year a school must provide to enrolled students a list of the information it must disseminate under the Higher Education Act of 1965, as amended, and the Family Education Rights and Privacy Act (FERPA) and the procedures for obtaining the information.
- △ The Department must provide information describing prepaid tuition and savings programs, and must include on its Internet site links to databases with information on public and private financial assistance programs and links to resources from which students may obtain information about fraudulent and deceptive financial aid practices.

### ***Campus Security Requirements***

- △ Schools must submit their crime statistics annually to the Department. The Department is required to make copies of these statistics available to the public and must submit to Congress a comprehensive report on crime statistics by September 1, 2000.
- △ Changes are made to the definition of a campus.
- △ The list of crimes that a school must include in its report is expanded.
- △ Schools must make, keep and maintain daily logs of crimes reported to police or security departments.

### ***Student Right to Know Requirements***

- △ Disclosures must be made by July 1 of each year.
- △ Schools may provide supplemental information about students who were excluded from the completion rate calculation or for students transferring into the institution or information showing the rate at which students transfer out of the institution.
- △ The NCAA is allowed to distribute graduation rate information to all secondary schools in the U.S. to satisfy the distribution requirements for prospective student athletes' guidance counselors and coaches.

### ***Equity in Athletics Requirements***

- △ The requirement that a school submit information related to athletically related student aid is moved from the Program Participation Agreement section of the law to the Equity in Athletics section of the law.

***Chapter 8: Recordkeeping and Disclosure***

Chapter 8 discusses the requirements for maintaining and disclosing records for the SFA Programs.

- No major changes.

***Chapter 9: Agreements Between Schools***

Chapter 9 discusses the use of agreements between schools to pay a student who is taking courses in an eligible program at more than one school.

- No major changes.

***Chapter 10: Applying for and Maintaining Participation in the SFA Programs***

Chapter 10 explains how to apply for SFA participation, changes that can affect a school's participation and how to report these changes, the Quality Assurance Program, and the Experimental Sites Initiative.

- The Amendments of 1998 made the following changes that effect this chapter:
  - △ A school is allowed to provide a copy of its contract with a third-party servicer upon request, rather than being required to submit it as part of the certification process.
  - △ The Application is to contain information that allows the Department to evaluate a school's financial responsibility and administrative capability. In addition, the Application must provide, at the option of a school, for participation in one or more of the FFEL and Direct Loan programs.
  - △ The certification period is extended to up to 6 years. In addition, the Department must notify schools six months in advance of the expiration of their certification.
  - △ Site visits as part of the certification and recertification process are now permissive rather than mandatory.
  - △ The Department may grant provisional certification to a school seeking approval of a change in ownership based on the Department's preliminary review of a materially complete application that is received by the Department within 10 business days of the transaction for which approval is sought.
  - △ A school is exempt from submitting a default management plan if (a) neither the subordinate institution nor parent institution has a cohort default rate of 10 percent or less and (b) the new owner does not own, and has not owned, any other school with a cohort default rate in excess of 10 percent.
  - △ The Department must publish special recertification regulations for foreign schools that receive less than \$500,000 in FFEL loan funds.
  - △ The Amendments also made several changes to the Quality Assurance Program and the Experimental Sites Initiative.

- This chapter provides an update on the Single Identifier Initiative.

### ***Chapter 11: Program Reviews and Audits***

Program Integrity issues, such as audits and program reviews, responsibilities that a school must fulfill when leaving the SFA Programs, and sanctions and corrective actions taken by the Department are discussed in Chapter 11.

- The Amendments of 1998 made the following changes that effect this chapter:
  - △ Each state (through at least one state agency) must furnish the Department, upon request, with information regarding licensing and other authorization for a school to operate in that state, promptly notify the Department of revocations of licensure or authorization, and promptly notify the Department of credible evidence that a school has committed fraud in the administration of the SFA Programs or has substantially violated a provision of the HEA.
  - △ Changes are made to the requirements for accrediting agencies.
  - △ The Amendments of 1998 created a limited exception to the annual audit requirement.
  - △ Site visits as part of the certification and recertification process are now permissive rather than mandatory.
  - △ The Department is required to give priority in program reviews to schools that meet certain criteria. In addition, the Amendments added special administrative rules for program reviews. The Amendments of 1998 also require civil penalties arising from a program review or audit to be based upon the gravity of the violation.
  - △ The Department is given the authority to issue administrative subpoenas to assist in conducting investigations of possible violations of the provisions of SFA Programs. In addition, the law authorizes the Department to request the Attorney General to invoke the assistance of any court of the United States for purposes of enforcement of a subpoena if necessary.
- A phone number is provided for small businesses to call to comment on the enforcement actions of the Department of Education, call 1-888-REG-Fair (1-888-734-3247).

***Chapter 12: Distance Education***

Chapter 12 discusses the applicability of the SFA Program requirements to distance education programs.

- The Amendments of 1998, Public Law 105-244 (the Amendments of 1998) created a Distance Education Demonstration Program.
- This chapter also repeats the guidance on the applicability of current SFA Program requirements provided in Dear Colleague letter GEN-98-10.

We are interested in hearing your comments or suggestions on ways to make the SFA Handbook more useful. Please send your comments to:

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