



Program Integrity Final Rules Summary

Nov. 12, 2010

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This document summarizes select highlights of regulatory changes from the U.S. Department of Education’s program integrity final rules published Oct. 29, 2010.

Most of the changes in the final rules are effective July 1, 2011. Early implementation is not permitted for any of the provisions.

Changes to verification requirements are not effective until July 1, 2012. NELA® will provide a separate summary of these requirements.

Topic	Final Rule — What’s New	Effective Date	Additional Information
Ability to Benefit			
ATB Alternative §668.32(e)(5)	<p>Expands the alternative ability to benefit provision permitting a student to demonstrate ATB by completing six credit hours “or equivalent coursework” applicable to a degree or certificate awarded. The provision defines “equivalent coursework” as either of the following:</p> <ul style="list-style-type: none"> • Six semester, trimester or quarter hours. • 225 clock hours. 	July 1, 2011	Hours must be applicable to a degree or certificate offered at the school. If the student transfers to another school, the six hours must be applicable to a degree or certificate at the new school to be used as an ATB alternative.
Definitions §668.142	<ul style="list-style-type: none"> • Assessment center — Adds that test administrators at an assessment center at which ATB tests are administered must be certified by the test publisher or the state, as appropriate. • Independent test administrator — An individual who administers ATB tests in any location other than an assessment center. The ITA must have no current or former relationship with the school at which the student intends to enroll. • Test — A standardized test, assessment or instrument that has formal procedures to guide the administration of the test itself, such as test conditions, duration and scoring. • Test administrator — Adds the requirement that the test administrator not be compensated for that duty based on test outcomes, and that the test administrator is charged with securing the test content from unauthorized access. 	July 1, 2011	

Topic	Final Rule — What's New	Effective Date	Additional Information
School Liability §668.154	The school may be liable for any Title IV funds disbursed to a student based on an incorrect determination of the student's ability to benefit, if the school used a test that was not independently administered or if the school or an employee of the school compromised the integrity of the test in any way.	July 1, 2011	
Agreements Between Institutions of Higher Education			
Consortium Agreements §668.5(a)(2)	If a consortium agreement exists between two or more eligible schools that are owned or controlled by the same individual, partnership or corporation, an otherwise eligible program is considered eligible only if the school that grants the degree or certificate (the home school) provides more than 50 percent of the program and the program is otherwise eligible.	July 1, 2011	<p>The Notice of Proposed Rulemaking preamble clarified that if the degree-granting school merely gives credit for courses provided by another school, but does not provide courses, the school is not considered to provide an educational program.</p> <p>The Final Rule preamble clarifies that this restriction does not apply to arrangements between public and private nonprofit institutions within a state, and that these provisions do not apply to articulation agreements.</p> <p>The final rule also clarifies that if a student enrolled under an agreement transfers from one school to another under the same ownership or control, the school to which the student transfers becomes the home school.</p>

<p>Contractual Agreements §668.5(c)</p>	<p>If a contractual agreement exists between an eligible school and an ineligible school, the program would be considered eligible only if the ineligible school has not had its eligibility to participate revoked or its application for participation or for recertification to participate denied by the Department, or the school voluntarily withdrew from participation under a termination, show-cause, suspension or similar proceeding initiated by the school's accrediting or state licensing agency, guarantor or the Department.</p>	<p>July 1, 2011</p>	
<p>Disclosures §§668.5(e) and 668.43(a)(12)</p>	<p>A school that enters into a consortium or contractual agreement must disclose the following to its prospective and current students:</p> <ul style="list-style-type: none"> • A description of the arrangement between the schools. • Information about the portion of the program that will not be provided by the school that grants the degree or certificate. • The name and location of the school that is not providing the degree or certificate and the method by which the school will provide its portion of the program. • The estimated additional costs the students may incur by enrolling in a program provided under the arrangement. <p>The school also must make available to its current and prospective students documentation of the school's accreditation and state, federal or tribal approval, and must provide those students with information necessary for them to file complaints with the accrediting entity or state approval or licensing agency and any other state official or agency that would handle a student complaint.</p>	<p>July 1, 2011</p>	<p>The NPRM preamble language clarified that these disclosure requirements apply only to blanket agreements and do not apply to individual, student-initiated agreements, or to internships or externships.</p>
<p>Credit Hour</p>			
<p>Definition §600.2</p>	<p>A credit hour is either of the following:</p> <ul style="list-style-type: none"> • One hour of classroom or direct faculty instruction with a minimum of two hours of out-of-class work for approximately 15 weeks for a semester or trimester credit hour, 10-12 weeks for a quarter credit hour, or an equivalent amount of work over another period of time. 	<p>July 1, 2011</p>	

	<ul style="list-style-type: none"> An equivalent amount of academic work as defined by the school for other academic activities such as lab work or internships. 		
Disbursement of Title IV Funds			
Purchasing Books and Supplies §668.164(i)(1)-(2)	The school must provide a method for a Federal Pell Grant-eligible student to purchase books and supplies by the seventh day of the payment period if, 10 days before the payment period begins, the school could disburse the student's Title IV funds and the disbursement would result in a credit balance on the student's account. The school must provide the lesser of the projected credit balance or the amount the student needs to purchase the books and supplies.	July 1, 2011	The NPRM preamble clarifies that the school may use either the actual costs of the books and supplies or the cost of attendance allowance for books and supplies used in the student's budget.
§668.164(i)(3)-(4)	The school must have a policy under which a student can opt out of the way the school provides for the student to purchase the books and supplies. No written authorization is needed if the student uses the school's process to purchase the books and supplies.		<p>The Final Rule preamble clarifies that the school can make these funds available to all students, not just those who are Pell Grant-eligible.</p> <p>The Final Rule preamble also clarifies that a student for whom verification is not completed or a C code is not resolved is not eligible for these funds. For students subject to the 30-day disbursement delay, the school may not count the loan funds in determining whether a credit balance would exist.</p>
Full-Time Student			
Definition §668.2	The definition of a full-time student is revised to permit the school to count repeated coursework when calculating the enrollment status for a student enrolled in a term-based program. The definition permits one repetition of a previously passed course but does not permit any repetition of a previously passed course if the student is required to repeat	July 1, 2011	

	the course because the student failed a different course in a prior term.		
Gainful Employment			
Definition §600.2	“Recognized occupation” is an occupation identified by a Standard Occupational Classification, or SOC, Code established by the federal Office of Management and Budget or an Occupational Information Network O*NET-SOC code established by the U.S. Department of Labor, or an occupation that the U.S. secretary of education determines in consultation with the secretary of labor to be recognized.	July 1, 2011	
Disclosures §668.6(b)(iv)	<p>The school must disclose on its website and in promotional materials that it provides to prospective students at least the following information regarding each one-year program:</p> <ul style="list-style-type: none"> • Occupations for which the program prepares students. • The on-time graduation/completion rate of those students. • The cost of each program. • The placement rate for students completing each program. But if the school is required by an accrediting agency or state to calculate placement rate by program, the school must disclose that rate and identify the party that requires the calculation. • The median debt incurred by students completing each program for the most recent three years, providing separately Title IV debt, private education loan debt, and institutional financing debt. 	July 1, 2011	<p>The Final Rules preamble states that the Department intends to develop a disclosure form to assist schools in providing this information. Schools still must comply with the requirements until the Department publishes the form.</p> <p>The Final Rule preamble also clarifies that, if the school is required to calculate its placement rate at the <i>program</i> level by its accrediting or state agency, it must disclose that rate, listing the agency whose calculation the school used.</p> <p>If the school is required by its accrediting or state agency to calculate its placement rate at the <i>institutional</i> level, it must calculate the rate at a program level and disclose that rate.</p>

			The National Center for Education Statistics will provide a placement rate calculation for schools' use; when that calculation is available, schools must calculate placement rates using that formula.
One-Year Programs §668.8(c)(3)	Only programs of at least one year in length that lead to a certificate or "credentialed nondegree" programs of at least one year would be required to meet a standard of preparing students for gainful employment in a recognized occupation. These provisions do not apply to degree-granting programs of study.	July 1, 2011	
Reports §668.6(a)	The school must report annually to the Department of Education certain information regarding students who complete a program of study that leads to gainful employment. The report must include, at a minimum, the following information: <ul style="list-style-type: none"> • Identifying information about each student who completed the program. • The classification of the program (CIP code). • The date the student completed the program. • The amount of loan funds the student received — private education loans and institutional financing. • Whether the student advanced to a higher credentialed program at the school or, if evidence is available, at another school. • The total number of students enrolled in each of the school's programs at the end of the award year, and identifying information for each student. 	July 1, 2011	The first report under these provisions is due no later than Oct. 1, 2011, for information for 2006-2007, to the extent that information is available, and the 2007-2008, 2008-2009 and 2009-2010 award years. Subsequently, the report is due no earlier than Sept. 30 of any year and no later than a date published by the Department of Education.
High School Diploma			
Validity of HS Diploma §668.16(p)	The school must develop procedures to validate the student's completion of high school if the school or the Department believes the student's diploma is not valid.	July 1, 2011	The Final Rule preamble clarifies that, for 2011-2012, the high school name and state information will be

			required only from first-year undergraduates filing the Free Application for Federal Student Aid on the Web. Students using FAFSA on the Web for the 2011-2012 year see a drop-down box list of high schools supplied by NCES.
Incentive Compensation			
Merit-Based Adjustments §668.14(b)(22)(i)(A)-(B)	<p>The Department eliminated the safe harbors that previously governed some aspects of employee compensation, and instead will permit schools and their contractors to pay employees the following:</p> <ul style="list-style-type: none"> • Merit-based adjustments if those adjustments are not based — directly or indirectly — on securing enrollments or awarding financial aid. • Profit-sharing payments so long as the payments are not provided to anyone engaged in student recruitment or admissions, or to staff who make decisions about the awarding of Title IV assistance. <p>These restrictions do not apply to the recruitment of foreign students living in foreign countries who are not eligible for Title IV aid.</p>	July 1, 2011	
Definitions §668.14(b)(22)(iii)	<p>The regulations define the following terms for purposes of regulating incentive compensation:</p> <ul style="list-style-type: none"> • Commission, bonus or other means of incentive payment — Money or something of value, other than salary or wages, paid or given to an individual for services performed. • Securing enrollments or the awards of financial aid — Activity performed to admit students or award financial aid to students, including contact of any form with a prospective student. • Enrollment — Admission of students to an eligible school. • Entity — An institution or organization that undertakes the 	July 1, 2011	

	<p>recruiting, admitting of students or that makes decisions about and awards Title IV funds.</p> <ul style="list-style-type: none"> Person — An employee who undertakes recruiting, admitting of students or makes decisions about and awards Title IV funds, or an employee with higher level responsibility for recruitment, admission of students or making decisions about awarding Title IV funds. 		
Misrepresentation of Information			
Scope §668.71(a) and (b)	If the Department determines that a school has engaged in substantial misrepresentation, it can revoke the school's Program Participation Agreement, limit the school's participation in the Title IV programs, deny the school's participation application, or initiate Limitation, Suspension, and Termination against the school.	July 1, 2011	
Definitions §668.71(c)	Misrepresentation — Representations regarding the school, its programs, available financial assistance or the employability of the school's graduates. Covered representations may be made by a school representative or an individual or entity with whom the school has an agreement — directly or indirectly — if that entity makes a false or misleading statement to a student, agency or the public. A misleading statement is one that is likely to deceive or confuse and may be made orally, in writing or by visual means.	July 1, 2011	
Department of Education Endorsement §668.75	The school, a school representative or an individual or entity with which the school has an agreement may not misrepresent the school's Title IV participation in any manner to suggest that the Department of Education approves or endorses its programs.	July 1, 2011	
Return of Title IV Funds — Modules			
Student Withdrawn §668.22(a)(2)(i)-(ii)	<p>A student is considered to be withdrawn, and the school must do a Return of Title IV Funds calculation, if:</p> <ul style="list-style-type: none"> In a clock hour program, the student does not complete all of the <i>clock hours</i> in the payment period or period of enrollment that the student was scheduled to complete. In a credit hour program, the student does not complete all of the <i>days</i> in the payment period or period of enrollment 	July 1, 2011	

	<p>that the student was scheduled to complete.</p> <ul style="list-style-type: none"> In a nonterm or non-standard term program, the student is not scheduled to begin another course within a payment or enrollment period for more than 45 days after the end of the module the student ceased attending (unless on an approved leave of absence). 		
<p>Student Not Withdrawn §668.22(a)(2)(ii)(A) (1)-(2)</p>	<p>A student is not considered to be withdrawn, and the school will not be required to do a Return of Title IV Funds calculation, if:</p> <ul style="list-style-type: none"> The school obtains written confirmation from the student that the student will attend another module later in the same payment or enrollment period. For a nonterm or non-standard term program, that the later module begins no later than 45 days after the end of the module the student ceased attending. 	July 1, 2011	
<p>Delay Attendance §668.22(a)(2)(ii)(B) (1)-(2)</p>	<p>A student who has provided the school with confirmation that he or she will attend another module later in the same period may change the date of return, provided the student does so before the originally listed return date.</p>	July 1, 2011	
<p>Failure to Return §668.22(a)(2)(ii)(C) (1)-(2)</p>	<p>If a student who provided confirmation that he or she would return later in the same period fails to return, that student is considered to have withdrawn from the period. In this case the withdrawal date and total number of days in the period are the date and days that would have applied prior to the confirmation.</p>	July 1, 2011	
<p>Eligibility Upon Return §668.22(a)(2)(iii) (A)-(B)</p>	<p>If a student withdraws from a credit hour, term-based program offered in modules, but re-enters prior to the end of the period, that student is eligible to receive any funds for which the student was eligible prior to the withdrawal if the enrollment status supports those amounts, including any returned funds.</p> <p>If a student withdraws from a clock hour or nonterm credit hour program but re-enters the program within 180 days, the student remains in the same period and is eligible for any funds for which the student was eligible prior to the withdrawal, including returned funds.</p>	July 1, 2011	

Return of Title IV Funds and Taking Attendance			
Required to Take Attendance §668.22(b)(i)	<p>The school is “required to take attendance” in each of the following circumstances:</p> <ul style="list-style-type: none"> • If the state or the school’s accrediting agency — or some other authoritative third party — requires the school to take attendance. • The school has a policy that requires its instructors to take attendance. • The school is subject to a requirement that can be met only by taking attendance or conducting some comparable process (if the school requires students in a particular program of study to demonstrate attendance in that program’s classes, for example.) <p>Note that a school that is required to take attendance or that takes attendance only on one specific day to meet a reporting requirement is not considered as having a policy that requires the taking of attendance.</p>	July 1, 2011	
Withdrawal Date §668.22(b)(3)(ii)	<p>If a school meets the definition of being required to take attendance — whether for the entire period of enrollment or for only a limited time frame — it must use those attendance records to determine the withdrawal dates and perform any necessary Return of Title IV Funds calculations for its students.</p> <p>Note that if a school takes attendance only through a specific date — such as a census date — and a student is in attendance on that date but subsequently withdraws, then for Return of Title IV Funds purposes that student will be treated as a student for whom the school was not required to take attendance. But if the student withdraws prior to the census date or during a similar period, then the student is treated as if the school is required to take attendance.</p>	July 1, 2011	
Academic Attendance and Attendance at an	Final regulations define both “academic attendance” and “attendance at an academically related activity” to clarify that institutions may use institutionally documented attendance at	July 1, 2011	

Academically Related Activity §668.22(l)(7)(i)(B)(4)	certain activities as the withdrawal date — with one new exception. The final rule clarifies that academic attendance and academically related activity no longer include participation in academic counseling or advising. This revision applies to §668.22(c)(3)(ii).		
Retaking Course Work			
Eligible Student §668.2(b)	In a term-based program, a student who retakes previously completed course work is considered eligible for additional Title IV assistance, even if that student will not receive credit for that coursework in addition to credits already received. A single repetition of a previously passed class may be counted toward qualifying enrollment status, but the school may not count toward the eligible student's enrollment status any previously passed course if the course is being repeated because the student failed other coursework.	July 1, 2011	
Satisfactory Academic Progress			
Definitions §668.34(b)	<ul style="list-style-type: none"> • Appeal — A process by which a student who is not meeting the school's standards of satisfactory academic progress requests reconsideration of the student's eligibility for additional Title IV assistance. • Financial aid probation — A status that the school will assign to a student whom the school identifies as failing to make SAP and who has successfully appealed the school's finding. • Financial aid warning — A status that the school will assign to a student who fails to make SAP if that school evaluates SAP at the end of each payment period. • Maximum time frame: <ul style="list-style-type: none"> ○ For undergraduate students enrolled in a program that measures progress in credit hours, it is not more than 150 percent of the published length of the academic program. ○ For undergraduate students enrolled in a program that measures progress in clock hours, it is a period that is not more than 150 percent of the published length of the program as measured by the cumulative number of 	July 1, 2011	Schools must revise their existing SAP policies or develop new policies that use the terminology noted in the new regulations.

	<p>clock hours the student is required to complete and expressed in calendar time.</p> <ul style="list-style-type: none"> ○ For graduate students it is a period defined by the school, based on the length of the program in which the student is enrolled. 		
SAP Policy Components §668.34(a)(4)-(7)	<p>At a minimum, the school’s policy must include the following information:</p> <ul style="list-style-type: none"> • The pace at which the student must complete the program of study to ensure that the student does not exceed the program’s maximum time frames. • A policy that specifies the grade point average that a student must achieve at each point of SAP evaluation. If the school does not measure GPA, then the policy must explain the use of a comparable assessment measure. • A description of the way that the student’s GPA and pace of completion are affected by factors such as incomplete courses, withdrawals, repeating courses and transfers from other schools. • If the program is at least two years in length — a policy that specifies that, at the end of the second academic year, the student must have a GPA of C or its equivalent, or have academic standing that is consistent with the school’s requirements for graduation. • A policy that a student who is not achieving the required GPA or moving through the curriculum at the required pace is no longer eligible to receive Title IV aid. • A description of the school’s use of financial aid warning and probation and the effect of those statuses on the student’s eligibility for additional Title IV aid. • A description of how the student regains eligibility for Title IV aid if the school permits students to appeal a determination that the student is not meeting SAP. 	July 1, 2011	If a school’s summer period is a “crossover” period, the school may apply either its current SAP policy for that period or the new, 2011-2012 policy.
Review Intervals §668.34(a)(3)	<p>Each school must review SAP for each student receiving Title IV assistance at regular intervals, as follows:</p> <ul style="list-style-type: none"> • At the end of each payment period, if the program of study is less than or equal to one year of study. 	July 1, 2011	

	<ul style="list-style-type: none"> At the end of each payment period or at least annually, for programs of study that are more than one year in length. 		
Warnings and Probation §668.34(c) and (d)	<p>For schools that evaluate SAP at the end of each payment period:</p> <ul style="list-style-type: none"> A student on financial aid warning may continue to receive Title IV assistance for one payment period. The school may assign this status without an appeal or other action by the student. A student on financial aid probation may continue to receive Title IV assistance for one payment period. The school may require a student who is on probation to fulfill specific criteria such as taking a reduced academic load. This student must, at the end of one payment period, meet the school's SAP standards or meet the standards of any academic plan implemented by the school and student. <p>For schools that evaluate SAP annually or less frequently than at the end of each payment period:</p> <ul style="list-style-type: none"> A student on financial aid probation may receive additional Title IV aid for one subsequent payment period — if the student appeals the school's assertion that the student is not making SAP, and the school determines that the student should be able to make SAP during the next payment period and meet the school's SAP standards by the end of that payment period. A student on financial aid probation for a payment period may not receive Title IV funds for a subsequent payment period, unless that student makes SAP or the school determines that the student met other requirements in an academic plan the school established with the student. 	July 1, 2011	
State Authorization as a Component of Institutional Eligibility			
Authorization Components §600.9(a)	<p>A state's authorization establishes an institution as a legally authorized school if the authorization contains, at a minimum, each of the following components:</p> <ul style="list-style-type: none"> Authorization for the school to offer education programs beyond secondary programs. The authority is insufficient if 	July 1, 2011	

	<p>it is simply an authorization to do business or to operate as a charitable organization in the state.</p> <ul style="list-style-type: none"> • Adverse action provisions by which the state enforces certain standards. • A process by which it reviews and acts on complaints it receives concerning a school in its state. 		
Eligibility Requirements §600.9(a)	A school is considered to be legally authorized by a state if it is established by name under a charter, statute, constitutional provision, license, approval or action of the appropriate state agency or entity.	July 1, 2011	
“Other Authorities” §600.9(b)	<p>A school may be considered to have sufficient state authority if the school is authorized to offer postsecondary education by the federal government, as in the case of a military academy, or by an Indian tribe.</p> <p>Some religious schools may be considered to be authorized to offer postsecondary education if they are exempted by a state from state authorization due to their religious base.</p>	July 1, 2011	