

(d) Within 60 days after receiving a request for reinstatement, the Secretary—

- (1) Grants the request;
- (2) Denies the request; or
- (3) Grants the request subject to limitations.

(e)(1) If the Secretary denies the lender's or servicer's request or allows reinstatement subject to limitations, the lender or servicer, upon request, is given an opportunity to show why its eligibility should be reinstated and all limitations removed.

(2) A lender or third-party servicer whose eligibility to participate in the FFEL programs is reinstated subject to limitations imposed by the Secretary pursuant to paragraph (d)(3) of this section, may participate in those programs, subject to those limitations, pending a decision by the Secretary on a request under paragraph (e)(1) of this section.

(Approved by the Office of Management and Budget under control numbers 1845-0020)

(Authority: 20 U.S.C. 1080, 1082, 1085, 1094)

[57 FR 60323, Dec. 18, 1992, as amended at 58 FR 9119, Feb. 19, 1993; 59 FR 22459, Apr. 29, 1994; 59 FR 34964, July 7, 1994; 60 FR 33058, June 26, 1995; 64 FR 58965, Nov. 1, 1999]

**§ 682.712 Disqualification review of limitation, suspension, and termination actions taken by guarantee agencies against lenders.**

(a) The Secretary reviews a limitation, suspension, or termination action taken by a guaranty agency against a lender participating in the FFEL programs to determine if national disqualification is appropriate. Upon completion of the Secretary's review, the Secretary notifies the guaranty agency and the lender of the Secretary's decision by mail.

(b) The Secretary disqualifies a lender from participation in the FFEL programs if—

(1) The lender waives review by the Secretary; or

(2) The Secretary conducts the review and determines that the limitation, suspension, or termination was imposed in accordance with section 428(b)(1)(U) of the Act.

(c)(1) Disqualification by the Secretary continues until the Secretary is satisfied that—

(i) The lender has corrected the failure that led to the limitation, suspension, or termination; and

(ii) There are reasonable assurances that the lender will comply with the requirements of the FFEL programs in the future.

(2) Revocation of disqualification by the Secretary does not remove any limitation, suspension, or termination imposed by the agency whose action resulted in the disqualification.

(d) A guaranty agency shall refer a limitation, suspension, or termination action that it takes against a lender to the Secretary within 30 days of its final decision to limit, suspend, or terminate the lender's eligibility to participate in the agency's program.

(e) The Secretary reviews an agency's limitation, suspension, or termination of a lender's eligibility only when the guaranty agency's action is final, e.g., the lender is not entitled to any further appeals within the guaranty agency. A subsequent court challenge to an agency's action does not by itself affect the timing of the Secretary's review.

(f) The guaranty agency's notice to the Secretary regarding a termination action must include a certified copy of the administrative record compiled by the agency with regard to the action. The record must include certified copies of the following documents:

(1) The guaranty agency's letter initiating the action.

(2) The lender's response.

(3) The transcript of the agency's hearing.

(4) The decision of the agency's hearing officer.

(5) The decision of the agency on appeal from the hearing officer's decision, if any.

(6) The regulations and written procedures of the agency under which the action was taken.

(7) The audit or lender review report or documented basis that led to the action.

(8) All other documents relevant to the action.

(g) The guaranty agency's referral notice to the Secretary regarding a limitation or suspension action must include—

(1) The documents described in paragraph (f) of this section; and

(2) Documents describing and substantiating the existence of one or more of the circumstances described in paragraph (j) of this section.

(h)(1) Within 60 days of the Secretary's receipt of a referral notice described in paragraph (f) or (g) of this section, the Secretary makes an initial assessment, based on the agency's record, as to whether the agency's action appears to comply with section 428(b)(1)(U) of the Act.

(2) In the case of a referral notice described in paragraph (g) of this section, the Secretary also determines whether one or more of the circumstances described in paragraph (j) of this section exist.

(3) If the Secretary concludes that the agency's action appears to comply with section 428(b)(1)(U) of the Act and, if applicable, one or more of the circumstances described in paragraph (j) of this section exist, the Secretary notifies the lender that the Secretary will review the guaranty agency's action to determine whether to disqualify the lender from further participation in the FFEL programs and affords the lender an opportunity—

(i) To waive the review and be disqualified immediately; or

(ii) To request a review.

(i) The Secretary's review of the guaranty agency's action is limited to whether the agency action was taken in accordance with procedures that were substantially the same as procedures applicable to the limitation, suspension, or termination of eligibility of a lender under the FISL Program (34 CFR part 682, subpart G).

(j) In the case of an action by an agency that limits or suspends a lender's eligibility to participate in the agency's program, the agency shall provide the Secretary with a referral as described in paragraph (g) of this section only if—

(1) The lender has not corrected the violation. A violation is corrected if, among other things, the lender has satisfied fully all liabilities incurred by the lender as a result of the violation, including its liability to the Secretary, or the lender has arranged to satisfy those liabilities in a manner acceptable to the parties to whom the liabilities are owed;

(2) The lender has not provided satisfactory assurances to the agency of future compliance with program requirements; or

(3) The guaranty agency determines that special circumstances warrant disqualification of the lender from the FFEL programs for a significant period, notwithstanding the agency's decision not to terminate the lender's eligibility to participate in the agency's program.

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**§ 682.713 Disqualification review of limitation, suspension, and termination actions taken by guaranty agencies against a school.**

(a) The Secretary reviews a limitation, suspension, or termination action taken by a guaranty agency against a school participating in the FFEL programs to determine if national disqualification is appropriate. Upon completion of the Secretary's review, the Secretary notifies the guaranty agency and the school of his decision by mail.

(b) The Secretary disqualifies a school from participation in the FFEL programs if—

(1) The school waives review by the Secretary; or

(2) The Secretary conducts the review and determines that the limitation, suspension, or termination was imposed in accordance with section 428(b)(1)(T) of the Act.

(c)(1) Disqualification by the Secretary continues until the Secretary is satisfied that—

(i) The school has corrected the failure that led to the limitation, suspension, or termination; and

(ii) There are reasonable assurances that the school will comply with the requirements of the FFEL programs in the future.

(2) Revocation of disqualification by the Secretary does not remove any limitation, suspension, or termination imposed by the agency whose action resulted in the disqualification.

(d) A guaranty agency shall refer a limitation, suspension, or termination