

from your former parent institution in the calculation under § 668.183.

(Approved by the Office of Management and Budget under control number 1845-0022)

(Authority: 20 U.S.C. 1082, 1085, 1094, 1099c)

**§ 668.185 Draft cohort default rates and your ability to challenge before official cohort default rates are issued.**

(a) *General.* (1) We notify you of your draft cohort default rate before your official cohort default rate is calculated. Our notice includes the loan record detail report for the draft cohort default rate.

(2) Regardless of the number of borrowers included in your cohort, your draft cohort default rate is always calculated using data for that fiscal year alone, using the method described in § 668.183(d)(1).

(3) Your draft cohort default rate and the loan record detail report are not considered public information and may not be otherwise voluntarily released by a data manager.

(4) Any challenge you submit under this section and any response provided by a data manager must be in a format acceptable to us. This acceptable format is described in the “Cohort Default Rate Guide” that we provide to you. If your challenge does not comply with the requirements in the “Cohort Default Rate Guide,” we may deny your challenge.

(b) *Incorrect data challenges.* (1) You may challenge the accuracy of the data included on the loan record detail report by sending a challenge to the relevant data manager, or data managers, within 45 days after you receive the data. Your challenge must include—

(i) A description of the information in the loan record detail report that you believe is incorrect; and

(ii) Documentation that supports your contention that the data are incorrect.

(2) Within 30 days after receiving your challenge, the data manager must send you and us a response that—

(i) Addresses each of your allegations of error; and

(ii) Includes the documentation that supports the data manager’s position.

(3) If your data manager concludes that draft data in the loan record de-

tail report are incorrect, and we agree, we use the corrected data to calculate your cohort default rate.

(4) If you fail to challenge the accuracy of data under this section, you cannot contest the accuracy of those data in an uncorrected data adjustment, under § 668.190, or in an erroneous data appeal, under § 668.192.

(c) *Participation rate index challenges.*

(1)(i) You may challenge an anticipated loss of eligibility under § 668.187(a)(1), based on one cohort default rate over 40 percent, if your participation rate index for that cohort’s fiscal year is equal to or less than 0.06015.

(ii) You may challenge an anticipated loss of eligibility under § 668.187(a)(2), based on three cohort default rates of 25 percent or greater, if your participation rate index is equal to or less than 0.0375 for any of those three cohorts’ fiscal years.

(2) For a participation rate index challenge, your participation rate index is calculated as described in § 668.195(b), except that—

(i) The draft cohort default rate is considered to be your most recent cohort default rate; and

(ii) If the cohort used to calculate your draft cohort default rate included fewer than 30 borrowers, you may calculate your participation rate index for that fiscal year using either your most recent draft cohort default rate or the average rate that would be calculated for that fiscal year, using the method described in § 668.183(d)(2).

(3) You must send your participation rate index challenge, including all supporting documentation, to us within 45 days after you receive your draft cohort default rate.

(4) We notify you of our determination on your participation rate index challenge before your official cohort default rate is published.

(5) If we determine that you qualify for continued eligibility based on your participation rate index challenge, you will not lose eligibility under § 668.187 when your next official cohort default rate is published. A successful challenge that is based on your draft cohort default rate does not excuse you from any other loss of eligibility. However, if your successful challenge of a loss of eligibility under paragraph

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(c)(1)(ii) of this section is based on a prior, official cohort default rate, and not on your draft cohort default rate, we also excuse you from any subsequent loss of eligibility, under § 668.187(a)(2), that would be based on that official cohort default rate.

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**§ 668.186 Notice of your official cohort default rate.**

(a) We notify you of your cohort default rate after we calculate it. After we send our notice to you, we publish a list of cohort default rates for all institutions.

(b) If your cohort default rate is 10 percent or more, we include a copy of the loan record detail report with the notice.

(c) If your cohort default rate is less than 10 percent—

(1) You may request a copy of any loan record detail report that lists loans included in your cohort default rate calculation; and

(2) If you are requesting an adjustment or appealing under this subpart, your request for a copy of the loan record detail report or reports must be sent to us within 15 days after you receive the notice of your cohort default rate.

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**§ 668.187 Consequences of cohort default rates on your ability to participate in Title IV, HEA programs.**

(a) *End of participation.* (1) Except as provided in paragraph (f) of this section, you lose your eligibility to participate in the FFEL and Direct Loan programs 30 days after you receive our notice that your most recent cohort default rate is greater than 40 percent.

(2) Except as provided in paragraphs (e) and (f) of this section, you lose your eligibility to participate in the FFEL, Direct Loan, and Federal Pell Grant programs 30 days after you receive our notice that your three most recent cohort default rates are each 25 percent or greater.

(b) *Length of period of ineligibility.* Your loss of eligibility under this section continues—

(1) For the remainder of the fiscal year in which we notify you that you are subject to a loss of eligibility; and

(2) For the next 2 fiscal years.

(c) *Using a cohort default rate more than once.* The use of a cohort default rate as a basis for a loss of eligibility under this section does not preclude its use as a basis for—

(1) Any concurrent or subsequent loss of eligibility under this section; or

(2) Any other action by us.

(d) *Special institutions.* If you are a special institution that satisfies the requirements for continued eligibility under § 668.198, you are not subject to any loss of eligibility under this section or to provisional certification under § 668.16(m).

(e) *Continuing participation in Pell.* If you are subject to a loss of eligibility under paragraph (a)(2) of this section, based on three cohort default rates of 25 percent or greater, you may continue to participate in the Federal Pell Grant Program if we determine that you—

(1) Were ineligible to participate in the FFEL and Direct Loan programs before October 7, 1998, and your eligibility was not reinstated;

(2) Requested in writing, before October 7, 1998, to withdraw your participation in the FFEL and Direct Loan programs, and you were not later reinstated; or

(3) Have not certified an FFELP loan or originated a Direct Loan Program loan on or after July 7, 1998.

(f) *Requests for adjustments and appeals.* (1) A loss of eligibility under this section does not take effect while your request for adjustment or appeal, as listed in § 668.189(a), is pending, provided your request for adjustment or appeal is complete, timely, accurate, and in the required format.

(2) Eligibility continued under paragraph (f)(1) of this section ends if we determine that none of the requests for adjustments and appeals you have submitted qualify you for continued eligibility under § 668.189. Loss of eligibility takes effect on the date that you receive notice of our determination on