

§ 668.197

34 CFR Ch. VI (7-1-02 Edition)

§ 668.197 Thirty-or-fewer borrowers appeals.

(a) *Eligibility.* You may appeal a notice of a loss of eligibility under § 668.187 if 30 or fewer borrowers, in total, are included in the 3 most recent cohorts of borrowers used to calculate your cohort default rates.

(b) *Deadline for submitting an appeal.*

(1) Before notifying you of your official cohort default rate, we make an initial determination about whether you qualify for a thirty-or-fewer borrowers appeal. If we determine that you qualify, we notify you of that determination at the same time that we notify you of your official cohort default rate.

(2) If you disagree with our initial determination, you must send us your thirty-or-fewer borrowers appeal, including all supporting documentation, within 30 days after you receive the notice of your loss of eligibility.

(c) *Determination.* You do not lose eligibility under § 668.187 if we determine that you meet the requirements for a thirty-or-fewer borrowers appeal.

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

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

§ 668.198 Relief from the consequences of cohort default rates for special institutions.

(a) *Eligibility.* You are only eligible for relief from the consequences of cohort default rates under this section if you are a—

(1) Historically black college or university as defined in section 322(2) of the HEA;

(2) Tribally controlled community college as defined in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; or

(3) Navajo community college under the Navajo Community College Act.

(b) *Applicability of requirements.* We may determine that the loss of eligibility provisions in § 668.187 and the prohibition against full certification in § 668.16(m) do not apply to you for each 1-year period beginning on July 1 of 1999, 2000, or 2001, if you meet the requirements in paragraph (a) of this section and you send us—

(1) By July 1 of the first 1-year period that begins after you receive our notice of a loss of eligibility under § 668.187—

(i) A default management plan; and

(ii) A certification that you have engaged an independent third party, as described in this section; and

(2) By July 1 of each subsequent 1-year period—

(i) Evidence that you have implemented your default management plan during the preceding 1-year period;

(ii) Evidence that you have made substantial improvement in the preceding 1-year period in your cohort default rate; and

(iii) A certification that you continue to engage an independent third party, as described in this section.

(c) *Default management plan.* (1) Your default management plan must provide reasonable assurance that you will, no later than July 1, 2002, have a cohort default rate that is less than 25 percent. Measures that you must take to provide this assurance include but are not limited to—

(i) Establishing a default management team by engaging your chief executive officer and relevant senior executive officials and enlisting the support of representatives from offices other than the financial aid office;

(ii) Identifying and allocating the personnel, administrative, and financial resources appropriate to implement the default management plan;

(iii) Defining the roles and responsibilities of the independent third party;

(iv) Defining evaluation methods and establishing a data collection system for measuring and verifying relevant default management statistics, including a statistical analysis of the borrowers who default on their loans;

(v) Establishing annual targets for reductions in your cohort default rate; and

(vi) Establishing a process to ensure the accuracy of your cohort default rate.

(2) We will determine whether your default management plan is acceptable, after considering your history, resources, dollars in default, and targets for default reduction in making this determination.

(3) If we determine that your proposed default management plan is unacceptable, you must consult with us to develop a revised plan and submit the revised plan to us within 30 days after you receive our notice that your proposed plan is unacceptable.

(4) If we determine, based on the evidence you submit under paragraph (b)(2) of this section, that your default management plan is no longer acceptable, you must develop a revised plan in consultation with us and submit the revised plan to us within 60 days after you receive our notice that your plan is no longer acceptable.

(5) A sample default management plan is provided in appendix B to this subpart. The sample is included to illustrate components of an acceptable default management plan. Since institutions' family income profiles, student borrowing patterns, histories, resources, dollars in default, and targets for default reduction are different, you must consider your own, individual circumstances in developing and submitting your plan.

(d) *Independent third party.* (1) An independent third party may be any individual or entity that—

(i) Provides technical assistance in developing and implementing your default management plan; and

(ii) Is not substantially controlled by a person who also exercises substantial control over your institution.

(2) An independent third party need not be paid by you for its services.

(3) The services of a lender, guaranty agency, or secondary market as an independent third party under this section are not considered to be inducements under 34 CFR 682.200 or 682.401(e).

(e) *Substantial improvement.* (1) For the purposes of this section, your substantial improvement is determined based on—

(i) A reduction in your most recent draft or official cohort default rate;

(ii) An increase in the percentage of delinquent borrowers who avoid default by using deferments, forbearances, and job placement assistance;

(iii) An increase in the academic persistence of student borrowers;

(iv) An increase in the percentage of students pursuing graduate or professional study;

(v) An increase in the percentage of borrowers for whom a current address is known;

(vi) An increase in the percentage of delinquent borrowers that you contacted;

(vii) The implementation of alternative financial aid award policies and development of financial resources that reduce the need for student borrowing; or (viii) An increase in the percentage of accurate and timely enrollment status changes that you submitted to the National Student Loan Data System (NSLDS) on the Student Status Confirmation Report (SSCR).

(2) When making a determination of your substantial improvement, we consider your performance in light of—

(i) Your history, resources, dollars in default, and targets for default reduction;

(ii) Your level of effort in meeting the terms of your approved default management plan during the previous 1-year period; and

(iii) Any other mitigating circumstance at your institution during the 1-year period.

(f) *Determination.* (1) If we determine that you are in compliance with this section, the provisions of §§668.187 and 668.16(m) do not apply to you for that 1-year period, beginning on July 1 of 1999, 2000, or 2001.

(2) If we determine that you are not in compliance with this section, you are subject to the provisions of §§668.187 and 668.16(m). You lose your eligibility to participate in the FFEL, Direct Loan, and Federal Pell Grant programs on the date you receive our notice of the determination.

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

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

APPENDIX A TO SUBPART M OF PART 668—SUMMARIES OF ELIGIBILITY AND SUBMISSION REQUIREMENTS FOR CHALLENGES, ADJUSTMENTS, AND APPEALS

I. Summary of Submission Eligibility

Some types of appeals may be submitted only if you are subject to a loss of eligibility

under § 668.187 or to provisional certification under § 668.16(m). These types of appeals are identified in the following table. Submission deadlines are described in the paragraphs and sections that are cited in the table. For example, although you may submit an uncorrected data adjustment, new data adjust-

ment, or loan servicing appeal if you are subject to provisional certification, the deadlines for those submissions are based on the date you receive your cohort default rate, not the date you receive the notice of your provisional certification.

	May you submit this type of challenge, adjustment, or appeal...	... if you are subject to...		
		No sanction?	Loss of eligibility?	Provisional certification?
Draft Cohort Default Rate	Incorrect Data Challenges (§668.185(b))	Yes	<i>Sanctions are never based on draft cohort default rates.</i>	
	Participation Rate Index Challenges (§668.185(c))	Yes		
Official Cohort Default Rate	Uncorrected Data Adjustments (§668.190)	Yes	Yes	Yes
	New Data Adjustments (§668.191)	Yes	Yes	Yes
	Erroneous Data Appeals (§668.192)	No	Yes	Yes
	Loan Servicing Appeals (§668.193)	Yes	Yes	Yes
	Economically Disadvantaged Appeals (§668.194)	No	Yes	No
	Participation Rate Index Appeals (§668.195)	No	Yes	No
	Average Rates Appeals (§668.196)	No	Yes	No
Thirty-or-Fewer Borrowers Appeals (§668.197)	No	Yes	No	

II. Summary of Submission Deadlines

1. *General.* The deadlines you must meet when submitting a challenge, a request for adjustment, or an appeal are summarized in the following table. The full, official requirements for these deadlines are in § 668.189 and in the sections and paragraphs cited in the table.

2. *Timeframes.* The timeframes provided in the table (“30 Days”, “15 Days”, etc.) identify the number of calendar days within which that action must be performed. Timeframes begin on the date that the previous action (connected to that timeframe with an arrowed line) is completed:

(i) For *your first action* (and for both actions, during an economically disadvantaged appeal), the timeframe begins on the date that you receive your draft cohort default rate, official cohort default rate, notice of loss of eligibility, or notice of provisional certification.

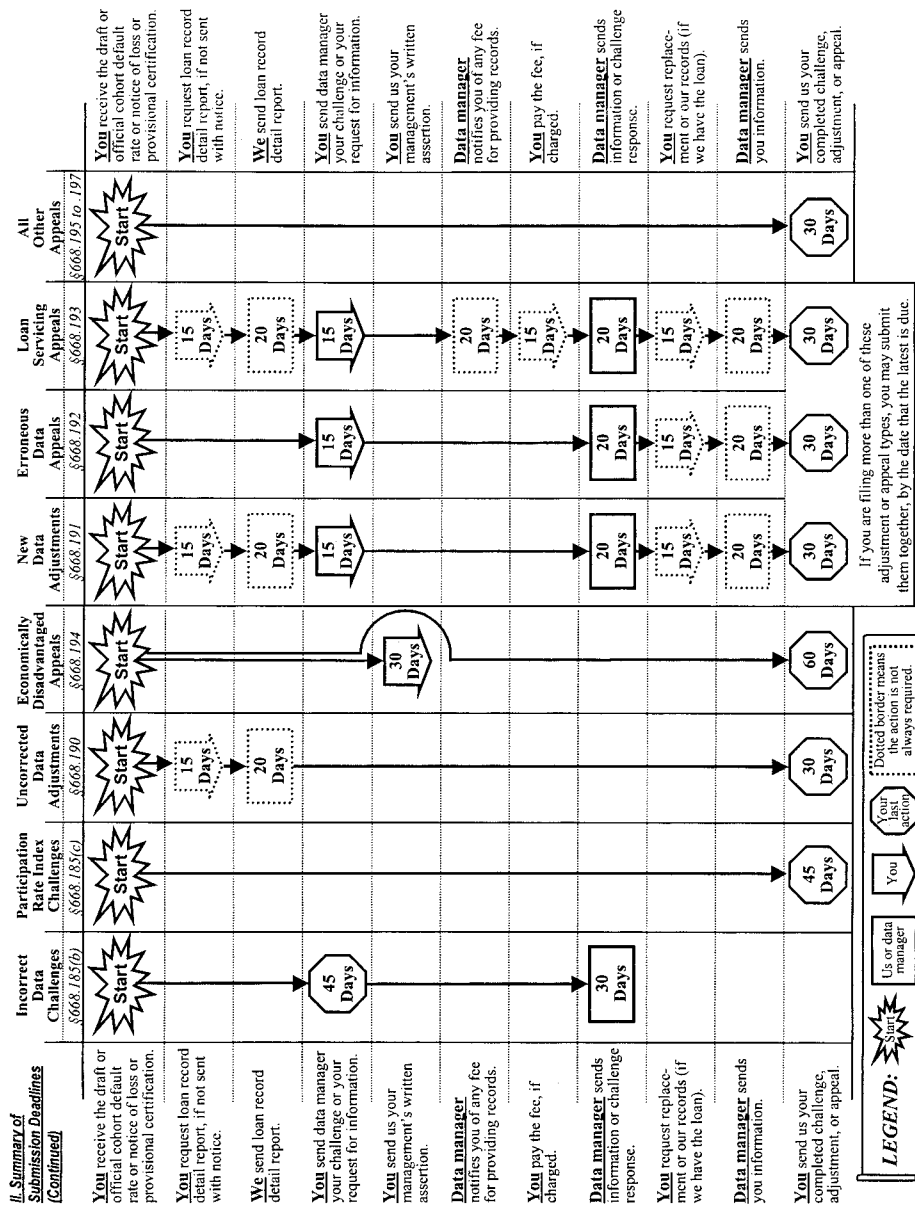
(ii) For *all other actions*, the timeframe begins on the date you receive the response to

your pending request. If you are waiting for responses from more than one data manager, the timeframe begins on the date that you receive the final response from the last data manager.

3. *Dotted borders.* Some actions identified in the table are required only in certain circumstances. For example, if we don’t send you a loan record detail report, because your cohort default rate is less than 10 percent, you must request one before you can request an adjustment or appeal. Timeframes for actions that aren’t always required are identified in the table by dotted borders:

(i) If you *are* required to perform that action, the timeframes begin on the same dates that they would if the timeframe borders were not dotted.

(ii) If you *are not* required to perform that action, the timeframe for your next required action is determined as if the timeframes with the dotted borders were not there. The timeframe for your next required action begins on the date that the last required action was completed.



APPENDIX B TO SUBPART M OF PART 668—SAMPLE DEFAULT MANAGEMENT PLAN FOR SPECIAL INSTITUTIONS TO USE WHEN COMPLYING WITH §668.198

This appendix is provided as a sample plan for those institutions developing a default

management plan in accordance with §668.198. It describes some measures you may find helpful in reducing the number of students that default on federally funded loans. These are not the only measures you could

implement when developing a default management plan. In developing a default management plan, you must consider your history, resources, dollars in default, and targets for default reduction to determine which activities will result in the most benefit to your students and to you.

I. Core Default Reduction Strategies (From § 668.198(c)(1))

1. Establish a default management team by engaging your chief executive officer and relevant senior executive officials and enlisting the support of representatives from offices other than the financial aid office.

2. Identify and allocate the personnel, administrative, and financial resources appropriate to implement the default management plan.

3. Define the roles and responsibilities of the independent third party.

4. Define evaluation methods and establish a data collection system for measuring and verifying relevant default management statistics, including a statistical analysis of the borrowers who default on their loans.

5. Establish annual targets for reductions in your rate.

6. Establish a process to ensure the accuracy of your rate.

II. Additional Default Reduction Strategies

1. Enhance the borrower's understanding of his or her loan repayment responsibilities through counseling and debt management activities.

2. Enhance the enrollment retention and academic persistence of borrowers through counseling and academic assistance.

3. Maintain contact with the borrower after he or she leaves your institution by using activities such as skip tracing to locate the borrower.

4. Track the borrower's delinquency status by obtaining reports from data managers and FFEL Program lenders.

5. Enhance student loan repayments through counseling the borrower on loan repayment options and facilitating contact between the borrower and the data manager or FFEL Program lender.

6. Assist a borrower who is experiencing difficulty in finding employment through career counseling, job placement assistance, and facilitating unemployment deferments.

7. Identify and implement alternative financial aid award policies and develop alternative financial resources that will reduce the need for student borrowing in the first 2 years of academic study.

8. Familiarize the parent, or other adult relative or guardian, with the student's debt profile, repayment obligations, and loan status by increasing, whenever possible, the communication and contact with the parent or adult relative or guardian.

III. Defining the Roles and Responsibilities of Independent Third Party

1. Specifically define the role of the independent third party.

2. Specify the scope of work to be performed by the independent third party.

3. Tie the receipt of payments, if required, to the performance of specific tasks.

4. Assure that all the required work is satisfactorily completed.

IV. Statistics for Measuring Progress

1. The number of students enrolled at your institution during each fiscal year.

2. The average amount borrowed by a student each fiscal year.

3. The number of borrowers scheduled to enter repayment each fiscal year.

4. The number of enrolled borrowers who received default prevention counseling services each fiscal year.

5. The average number of contacts that you or your agent had with a borrower who was in deferment or forbearance or in repayment status during each fiscal year.

6. The number of borrowers at least 60 days delinquent each fiscal year.

7. The number of borrowers who defaulted in each fiscal year.

8. The type, frequency, and results of activities performed in accordance with the default management plan.

PART 669—LANGUAGE RESOURCE CENTERS PROGRAM

Subpart A—General

Sec.

669.1 What is the Language Resource Centers Program?

669.2 Who is eligible to receive assistance under this program?

669.3 What activities may the Secretary fund?

669.4 What regulations apply?

669.5 What definitions apply?

Subpart B [Reserved]

Subpart C—How Does the Secretary Make a Grant?

669.20 How does the Secretary evaluate an application?

669.21 What selection criteria does the Secretary use?

669.22 What priorities may the Secretary establish?

Subpart D—What Conditions Must Be Met by a Grantee?

669.30 What are allowable equipment costs?