

## WRITTEN AGREEMENT BETWEEN INSTITUTIONS ON PROGRAM INSTRUCTION (Sec. 668.5)

*No change from the NPRM*

**Rationale for Regulation:** Concerned that written agreements on program instruction between eligible institutions under common ownership, and those between eligible and certain ineligible institutions were unfair to students and used to circumvent existing regulatory controls, the department has clarified what is allowed in instructional sharing agreements.

**Key Provisions of the Regulation:** The regulations require that in the case of institutions under common ownership the institution awarding the degree must provide at least 50 percent of the program. This 50 percent requirement does not apply to private nonprofit nor to public institutions because they are not “owned.”

- The regulation prohibits arrangements with institutions whose eligibility for participation in Title IV programs is revoked.
- All institutions with written agreements for instruction sharing must now disclose to students the requirements in new Sec. 668.43(a)(12), including: the name and location of other institution; the portion and delivery method of the other instruction; estimated additional costs that may be incurred; and contact information for filing complaints.

### **Regulatory Language:**

#### **§ 668.5 Written arrangements to provide educational programs.**

(a) *Written arrangements between eligible institutions.* (1) Except as provided in paragraph (a)(2) of this section, if an eligible institution enters into a written arrangement with another eligible institution, or with a consortium of eligible institutions, under which the other eligible institution or consortium provides part of the educational program to students enrolled in the first institution, the Secretary considers that educational program to be an eligible program if the educational program offered by the institution that grants the degree or certificate otherwise satisfies the requirements of § 668.8.

(2) If the written arrangement is between two or more eligible institutions that are owned or controlled by the same individual, partnership, or corporation, the Secretary considers the educational program to be an eligible program if— (i) The educational program offered by the institution that grants the degree or certificate otherwise satisfies the requirements of § 668.8; and (ii) The institution that grants the degree or certificate provides more than 50 percent of the educational program.

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(c) \* \* \*

(1) The ineligible institution or organization has not—

- (i) Had its eligibility to participate in the title IV, HEA programs terminated by the Secretary;
- (ii) Voluntarily withdrawn from participation in the title IV, HEA programs under a termination, show cause, suspension, or similar type proceeding initiated by the institution’s State licensing agency, accrediting agency, guarantor, or by the Secretary;
- (iii) Had its certification to participate in the title IV, HEA programs revoked by the Secretary; (iv) Had its application for recertification to participate in the title IV, HEA programs

denied by the Secretary; or (v) Had its application for certification to participate in the title IV, HEA programs denied by the Secretary;

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(e) *Information made available to students.* If an institution enters into a written arrangement described in paragraph (a), (b), or (c) of this section, the institution must provide the information described in § 668.43(a)(12) to enrolled and prospective students.