

§ 668.130 General.

(a) *Scope and purpose.* The regulations in this subpart govern the responsibilities of institutions and students in determining the eligibility of those noncitizen applicants for title IV, HEA assistance who must, under § 668.33(a)(2), produce evidence from the United States Immigration and Naturalization Service (INS) that they are permanent residents of the United States or in the United States for other than a temporary purpose with the intention of becoming citizens or permanent residents.

(b) *Student responsibility.* At the request of the Secretary or the institution at which an applicant for title IV, HEA financial assistance is enrolled or accepted for enrollment, an applicant who asserts eligibility under § 668.33(a)(2) shall provide documentation from the INS of immigration status.

(Authority: 20 U.S.C. 1091, 1094)

[58 FR 3184, Jan. 7, 1993, as amended at 63 FR 40626, July 29, 1998]

§ 668.131 Definitions.

The following definitions apply to this subpart:

Eligible noncitizen: An individual possessing an immigration status that meets the requirements of § 668.33(a)(2).

Immigration status: The status conferred on a noncitizen under the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1182.

Primary confirmation: A process by which the Secretary, by means of a matching program conducted with the INS, compares the information contained in an Application for Federal Student Aid or a multiple data entry application regarding the immigration status of a noncitizen applicant for title IV, HEA assistance with records of that status maintained by the INS in its Alien Status Verification Index (ASVI) system for the purpose of determining whether a student's immigration status meets the requirements of § 668.33(a)(2) and reports the results of this comparison on an output document.

Secondary confirmation: A process by which the INS, in response to the submission of INS Document Verification

Form G-845 by an institution, searches pertinent paper and automated INS files, other than the ASVI database, for the purpose of determining a student's immigration status and the validity of the submitted INS documents, and reports the results of this search to the institution.

(Authority: 20 U.S.C. 1091)

[58 FR 3184, Jan. 7, 1993, as amended at 59 FR 12521, Mar. 16, 1994; 63 FR 40626, July 29, 1998]

§ 668.132 Institutional determinations of eligibility based on primary confirmation.

(a) Except as provided in § 668.133(a)(1)(ii), the institution shall determine a student to be an eligible noncitizen if the institution receives an output document for that student establishing that—

(1) The INS has confirmed the student's immigration status; and

(2) The student's immigration status meets the noncitizen eligibility requirements of § 668.33(a)(2).

(b) If an institution determines a student to be an eligible noncitizen in accordance with paragraph (a) of this section, the institution may not require the student to produce the documentation otherwise required under § 668.33(a)(2).

(Authority: 20 U.S.C. 1091, 1094)

[58 FR 3184, Jan. 7, 1993, as amended at 63 FR 40626, July 29, 1998]

§ 668.133 Conditions under which an institution shall require documentation and request secondary confirmation.

(a) *General requirements.* Except as provided in paragraph (b) of this section, an institution shall require the student to produce the documentation required under § 668.33(a)(2) and request the INS to perform secondary confirmation for a student claiming eligibility under § 668.33(a)(2), in accordance with the procedures set forth in § 668.135, if—

(1) The institution—

(i) Receives an output document indicating that the student must provide the institution with evidence of the student's immigration status required under § 668.33(a)(2); or