may be granted by the hearing official if that official has certified or stated to the Secretary that review of the ruling is appropriate. The Secretary may order a stay of proceedings at any time after the filing of a request for interlocutory review.

(g) The Secretary notifies the parties if a petition or certification for interlocutory review is accepted, and may provide the parties a reasonable time within which to submit written argument with regard to the merit of the petition or certification.

(h) If the Secretary takes no action on a petition or certification for review within 15 days of receipt of it, the request is deemed to be denied.

(i) The Secretary may affirm, modify, set aside, or remand the interim ruling of the hearing official.

(j) The Secretary may delegate to a designated department official the functions described in paragraphs (f) through (i) of this section.

Approved by the Office of Management and Budget under control number 1801–0003

Authority: 20 U.S.C. 1094


Subpart I—Immigration-Status Confirmation

AUTHORITY: 20 U.S.C. 1091, 1092, and 1094, unless otherwise noted.

SOURCE: 58 FR 3184, Jan. 7, 1993, unless otherwise noted.

§ 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).


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


§ 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]

§ 668.134 Institutional policies and procedures for requesting documentation and receiving secondary confirmation.

(a) An institution shall establish and use written policies and procedures for requesting proof and securing confirmation of the immigration status of applicants for title IV, HEA student financial assistance who claim to meet the eligibility requirements of §668.33(a)(2). These policies and procedures must include—
(1) Providing the student a deadline by which to provide the documentation that the student wishes to have considered to support the claim that the student meets the requirements of §668.33(a)(2); and
(2) The institution determines that the immigration-status documents submitted by the student constitute reasonable evidence of the student’s claim to be an eligible noncitizen.

(b) Exclusions from secondary confirmation. (1) An institution may not require the student to produce the documentation requested under §668.33(a)(2) and may not request that INS perform secondary confirmation, if the student—
(i) Demonstrates eligibility under the provisions of §668.33(a)(1) or (b); or
(ii) Demonstrated eligibility under the provisions of §668.33(a)(2) in a previous award year as a result of secondary confirmation and the documents used to establish that eligibility have not expired; and
(iii) The institution does not have conflicting documentation or reason to believe that the student’s claim of citizenship or immigration status is incorrect.

(2) [Reserved]

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