

CHAPTER 4890

HIGHER EDUCATION SERVICES OFFICE

POSTSECONDARY REVIEW PROGRAM

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4890.0100 PURPOSE.

The Minnesota Higher Education Services Office is the designated State Postsecondary Review Entity (SPRE) to implement the State Postsecondary Review Program (SPRP) pursuant to the Higher Education Act of 1965 (HEA), Title IV, Part H, United States Code, title 20, sections 1099a to 1099a-3. The purpose of the program is to conduct or coordinate reviews of postsecondary institutions either referred by the United States Department of Education or identified by the Minnesota Higher Education Services Office and approved for review by the United States Department of Education.

Statutory Authority: *MS s 136A.04*

History: *20 SR 303; L 1995 c 212 art 3 s 59*

4890.0200 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the following terms have the meanings given them unless otherwise indicated.

Subp. 2. **Office.** "Office" means the Minnesota Higher Education Services Office.

Subp. 3. **Clock hour.** "Clock hour" has the meaning given it in Code of Federal Regulations, title 34, section 600.2.

Subp. 4. **Cohort.** "Cohort" means the graduates of a program during the 12-month period from July 1 of one calendar year through June 30 of the next calendar year.

Subp. 5. **Educational program.** "Educational program" has the meaning given it in Code of Federal Regulations, title 34, section 600.2.

Subp. 6. **Enrolled.** "Enrolled" has the meaning given it in Code of Federal Regulations, title 34, section 668.2, paragraph (b).

Subp. 7. **Institution.** "Institution" has the meaning of the types of institutions given in Code of Federal Regulations, title 34, part 600.

Subp. 8. **Licensure or other certification.** "Licensure or other certification" means an explicit credential based on assessed competence or other procedure, possession of which is required for an individual to practice a particular profession or engage in a particular occupation or trade.

Subp. 9. **Professional program.** "Professional program" has the meaning given it in Code of Federal Regulations, title 34, section 667.2, paragraph (c).

Subp. 10. **Referred institution.** "Referred institution" has the meaning given it in Code of Federal Regulations, title 34, section 667.2, paragraph (c).

Subp. 11. **Refund policy.** "Refund policy" means an established policy or policies of an institution governing the specific portion of tuition and fees that are refundable at specific periods of an enrollment period, and the specific manner in which a student may obtain a refund upon withdrawal from the institution.

Subp. 12. **Title IV.** "Title IV" means that portion of the Higher Education Act of 1965, Title IV, United States Code, title 20, subchapter IV, that establishes federal programs of financial assistance to students identified in Code of Federal Regulations, title 34, section 668.1, paragraph (c).

Subp. 13. **Tuition and fees.** "Tuition and fees" means the amount of money charged to students for instructional services. Tuition may be charged per term, per course, or per credit. Fees are those fixed sums charged to students for items not covered by tuition, excluding

room and board, but required of such a large portion of all students that students who do not pay the charge are exceptions.

Subp. 14. **Vocational program.** "Vocational program" has the meaning given it in Code of Federal Regulations, title 34, section 667.2, paragraph (c).

Statutory Authority: *MS s 136A.04*

History: *20 SR 303; L 1995 c 212 art 3 s 59*

4890.0300 REVIEW CRITERIA.

The office shall review institutions pursuant to Code of Federal Regulations, title 34, sections 667.5 and 667.6.

Statutory Authority: *MS s 136A.04*

History: *20 SR 303; L 1995 c 212 art 3 s 59*

4890.0400 OFFICE REVIEW.

The office shall review an institution pursuant to part 4890.0300 according to the standards in part 4890.0500. The review of each standard shall be based on information from the most recently completed academic year for which information regarding that standard exists unless otherwise required under this chapter, or as required by the secretary of the United States Department of Education.

Statutory Authority: *MS s 136A.04*

History: *20 SR 303; L 1995 c 212 art 3 s 59*

4890.0500 REVIEW STANDARDS.

Subpart 1. **Consumer information.** The office shall review an institution for:

A. the availability of catalogs, admission requirements, course outlines, schedules of tuition and fees, policies regarding course cancellations, and the rules and regulations of the institution relating to students; and

B. the accuracy of catalogs and course outlines in reflecting the courses and programs offered by the institution.

To be in compliance with this subpart, the institution must meet the requirements in:

(1) Code of Federal Regulations, title 34, section 668.16, Standards of administrative capability;

(2) Code of Federal Regulations, title 34, sections 668.41 to 668.45, Student consumer information services;

(3) Code of Federal Regulations, title 34, sections 668.71 to 668.75, Misrepresentation; and

(4) Higher Education Act of 1965, Title IV, United States Code, title 20, section 1092, paragraph (a), Information dissemination activities.

Subp. 2. **Ability to complete.** The office shall review an institution's method of assessing a prospective student's ability to successfully complete an educational program for which the prospective student has applied. To be in compliance with this subpart, the institution must meet the requirements in:

A. Code of Federal Regulations, title 34, section 668.7, paragraph (b), Ability to benefit; and

B. Higher Education Act of 1965, Title IV, United States Code, title 20, section 1091, paragraph (d).

Subp. 3. **Standards of progress and student records.**

A. The office shall review an institution's method of maintaining and enforcing standards related to student academic progress. To be in compliance with this item, the institution must meet the requirements in:

(1) Code of Federal Regulations, title 34, section 668.7, paragraph (c), Satisfactory progress;

(2) Code of Federal Regulations, title 34, section 668.16, paragraph (e), Standards of administrative capability;

(3) Code of Federal Regulations, title 34, section 668.23, Audits, records, and examinations;

(4) Code of Federal Regulations, title 34, section 668.43, paragraph (c)(2), Financial assistance information; and

(5) Code of Federal Regulations, title 34, section 668.36, Record retention requirements.

B. The office shall evaluate an institution's method of maintaining adequate student records. To be in compliance with this item, an institution shall maintain permanent records for all students enrolled at any time. Permanent records include transcripts, documents, and files containing student data relating to periods of attendance, academic credits earned, courses completed, grades awarded, and degrees and other formal recognitions awarded.

(1) To preserve permanent student records, an institution shall:

(a) hold at least one copy of all records in a depository that is secure from fire damage, water damage, and theft;

(b) designate an appropriate official to provide a student with official copies of records or official transcripts upon request, consistent with the institution's policies;

(c) execute a binding agreement with another organization, acceptable to the office, complying with this item for at least 50 years from the day the institution ceases to exist; and

(d) if the institution has no binding agreement under unit (c) for preserving and providing official copies of student records under this item, the institution must hold a continuous surety bond in an amount not to exceed \$20,000 to cover the projected costs of record administration by the office, or an entity designated by the office.

(2) When an institution decides to terminate postsecondary education operations, it must submit the following to the office:

(a) the planned date for termination of postsecondary education operations;

(b) the planned date for the transfer of permanent student records;

(c) the name and address of the entity to receive and hold the permanent student records; and

(d) the official of the entity receiving the permanent student records who is designated to provide official copies of records or transcripts upon request.

Subp. 4. Safety and health. The office shall review an institution's safety and health record. To be in compliance with this subpart, an institution must have no outstanding unresolved citations on the public record regarding any local, county, state, or federal safety or health law or regulation.

Subp. 5. Financial and administrative capacity.

A. The office shall review the financial capacity of an institution relative to its scale of operation and its method of keeping adequate financial and other information. To be in compliance with this item, an institution must meet the requirements in Code of Federal Regulations, title 34, section 668.15, Factors of financial responsibility.

B. The office shall review the administrative capacity of an institution relative to its specified scale of operations and its method of keeping adequate administrative information. To be in compliance with this item, an institution must meet the requirements in Code of Federal Regulations, title 34, section 668.16, Standards of administrative capability.

Subp. 6. Student protection for at-risk institutions.

A. The office shall review an institution's provisions to provide for instruction of students in the event the institution closes. If, during the review, an institution is determined to be financially at-risk by the office under subpart 5, item A, the office shall review the institution's compliance with the requirements in this subpart. To be in compliance with this item, an institution must have a plan that assures students that in the event the institution closes, further instruction is available. This plan must include:

(1) the name of other institutions that can provide educational programs substantially similar to those offered by the institution ceasing instruction; and

(2) a commitment by the institution ceasing instruction to fulfill the current term of enrollment without requiring students to incur an additional financial liability beyond that incurred by the students and clearly identified in the original student term of enrollment.

B. The office shall review an institution's method of providing for the retention and accessibility of financial aid records for students in the event the institution closes. To be in compliance with this item, the institution must meet the requirements in Code of Federal Regulations, title 34, section 668.23, Audits, records, and examinations.

C. The office shall review an institution's method of providing for the retention and accessibility of student academic records in the event the institution closes. To be in compliance with this item, the institution must meet the requirements in subpart 3, item B.

Subp. 7. Vocational program tuition, fees, and training.

A. For the purposes of this subpart, the terms in subitems (1) and (2) have the meanings given them.

(1) "Tuition and fees" means tuition and fees set by the institution and charged to a full-time student for the academic year as defined in Code of Federal Regulations, title 34, section 668.2, paragraph (b). For a program less than one year in length, the actual tuition and fees charged for the entire program applies.

(2) "Remuneration" means average annual salaries or wages for employment in specific trades, occupations, or specialty areas, that are related to a vocational program. Acceptable sources of documentation include:

(a) the most recent average wage according to Minnesota Salary Survey by Area 1990, issued by the Minnesota Department of Economic Security, August 1990, and incorporated by reference. It is available through the Minitex interlibrary loan system. It is subject to frequent change;

(b) the most recent data on wages according to the Dictionary of Occupational Titles, fourth edition, 1991, issued by the Bureau of Labor Statistics of the United States Department of Labor. The data on wages is incorporated by reference. It is available through the Minitex interlibrary loan system. It is subject to frequent change;

(c) projections by organizations or governmental units at the state or national level that specialize in employment and industries, expert opinion from refereed journals, and private for-profit or nonprofit organizations that specialize in providing employment and industry statistical projections; or

(d) actual earnings of an institution's most recent cohort of graduates for a program.

B. The office shall review the relationship between an institution's tuition and fees and the remuneration that can be reasonably expected by students who complete a vocational program and the quality of the educational preparation for useful employment. To be in compliance with this subpart, an institution must meet the requirements in items C and D and in:

(1) Code of Federal Regulations, title 34, section 667.2, paragraph (c), Vocational program;

(2) Code of Federal Regulations, title 34, section 668.16, Standards of administrative capability;

(3) Code of Federal Regulations, title 34, sections 600.1 to 600.11; and

(4) Code of Federal Regulations, title 34, section 668.14, Program participation agreement, paragraph (b)(26).

C. An institution's ratio of expected annual remuneration to tuition and fees must be at least 2 to 1 and the ratio must be disclosed in clear and unambiguous language to all students and prospective students. The ratio must be based upon tuition and fees in each program and expected remuneration for graduates of the program.

D. An institution must disclose to all students and prospective students of vocational programs the following information in clear and unambiguous language:

(1) evidence, including verified occupational placement, that employers accept the program as part of the criteria for entry into a job, position, career, or occupation;

(2) nationally recognized standards of quality training in the occupation or trade;

(3) trade, occupational, or professional organization information concerning preparation standards and occupational outcomes; or

(4) trade, occupational, or professional organizational standards for licensure or other certification.

Subp. 8. Availability of relevant information. The office shall review availability to an institution's students of relevant information regarding market and job availability for students in occupational, professional, and vocational programs, and the relationship of educational programs to specific standards necessary for state licensure or other certification in specific occupations. To be in compliance with this subpart, an institution must meet the requirements in:

A. Code of Federal Regulations, title 34, section 668.14, Program participation agreement, paragraph (b)(10) and (22);

B. Code of Federal Regulations, title 34, section 668.74, Employability of graduates; and

C. existing statute or rule pertaining to licensure or other certification in specific occupations.

Subp. 9. Appropriate program length. The office shall review the appropriateness of the number of credit or clock hours required to complete an institution's programs. To be in compliance with this subpart, an institution's programs must be approved by the appropriate state regulatory agency, or the program lengths must comply with existing Minnesota statute or rule, and its programs must meet the requirements in:

A. Code of Federal Regulations, title 34, section 668.8, Eligible program; and

B. Code of Federal Regulations, title 34, section 668.9, Relationship between clock hours and semester, trimester, or quarter hours in calculating Title IV, HEA program assistance.

Subp. 10. Administrative integrity. The office shall review the actions of an institution, owner, shareholder, or person exercising control over an educational institution which may adversely affect its participation in Title IV programs. To be in compliance with this subpart, an institution must meet the requirements in:

A. Code of Federal Regulations, title 34, section 600.30, Institutional changes requiring review by the secretary;

B. Code of Federal Regulations, title 34, section 668.15, Factors of financial responsibility;

C. Code of Federal Regulations, title 34, section 668.16, Standards of administrative capability;

D. Code of Federal Regulations, title 34, section 668.14, Program participation agreement, paragraph (b)(18); and

E. Code of Federal Regulations, title 34, section 668.82, paragraph (d), Standard of conduct.

Subp. 11. Student complaint process. The office shall review an institution's procedures for investigating and resolving student complaints regarding wrongs, grievances, or injuries pertaining to the standards in part 4890.0500. To be in compliance with this subpart, an institution must publish and follow the procedures in items A and B.

A. An institution shall establish, publish, and document that it administers a complaint process to receive, investigate, and respond to student complaints regarding wrongs, grievances, or injuries pertaining to the standards in part 4890.0500. The process must include:

(1) the institution's definition of the term "complaint" within the guidelines in this subpart;

(2) how a complaint shall be received (for example, by telephone, in writing, or in person) and the office and personnel designated to receive and file complaints;

(3) a time frame for completing the complaint process, including documenting, investigating, and responding to complaints;

(4) an appeal process in which the final determination is made by an official not directly involved in the alleged complaint;

(5) provisions that the institution shall not take adverse action against the student filing the complaint as a result of a complaint; and

(6) information regarding appropriate entities that may receive complaints in addition to the institution (for example, the Minnesota Department of Human Rights, the Minnesota State Approving Agency for Veteran's Education, or the Minnesota Higher Education Services Office).

B. An institution shall maintain an annual summary from each of the most recent five years as to how it received, investigated, and resolved complaints, and an annual summary as to the number of complaints received, the number of complaints investigated, and the number of complaints that were resolved.

Subp. 12. Student recruitment process.

A. The office shall review an institution's advertising, promotion, and student recruitment practices. To be in compliance with this item, an institution must meet the requirements in:

(1) Code of Federal Regulations, title 34, section 668.14, Program participation agreement, paragraph (b)(10) and (22); and

(2) Code of Federal Regulations, title 34, sections 668.71 to 668.75, Misrepresentation.

B. The office shall evaluate the truthfulness of an institution's publications and promotions. To be in compliance with this item, an institution must assure the office that it uses for promotion and student recruitment publications and advertisements that are truthful and do not give any false, fraudulent, deceptive, inaccurate, or misleading information about the institution, its personnel, programs, services, or occupational opportunities for its graduates.

Subp. 13. Refund policy. The office shall review an institution's refund policy for fairness and equity. To be in compliance with this subpart, an institution must meet the requirements in:

A. Code of Federal Regulations, title 34, section 668.22, Fair and equitable refund policy;

B. Code of Federal Regulations, title 34, part 668, Appendix A;

C. Minnesota Statutes, section 141.271, Refunds, private trade schools; and

D. part 2644.0650, Refund policy, cosmetology schools.

Subp. 14. Performance outcomes.

A. (1) The office shall review the completion and graduation rate of an institution subject to Code of Federal Regulations, title 34, section 668.8, paragraph (e)(1)(i). To be in compliance with this subitem, an institution must have a graduation rate equal to or greater than 70 percent.

(2) The office shall review an institution not subject to Code of Federal Regulations, title 34, section 668.8, paragraph (e)(1)(i), on the basis of the institution's completion and graduation rates as calculated in accordance with appropriate federal regulations, and the requirements of this item. To be in compliance with this subitem, an institution must have either:

(a) a graduation and completion rate equal to or greater than 40 percent as calculated according to Code of Federal Regulations, title 34, section 668.46, Completion or graduation rate, or Higher Education Act of 1965, Title IV, United States Code, title 20, section 1092, paragraph (a)(3); or

(b) a graduation, completion, and retention rate equal to or greater than 50 percent computed as the sum of:

i. the graduation and completion rate as calculated according to Code of Federal Regulations, title 34, section 668.46, Completion or graduation rate, or Higher Education Act of 1965, Title IV, United States Code, title 20, section 1092, paragraph (a)(3); and

ii. the percent of students included in the cohort in subunit i who continued their enrollment in the institution or transferred to other institutions not included in the computation of the graduation and completion rate.

(3) To be in compliance with this item, an institution must meet the requirements in Higher Education Act of 1965, Title IV, United States Code, title 20, section 1092, paragraph (a)(1)(L).

B. The office shall review the withdrawal rate of an institution's students as established in Code of Federal Regulation, title 34, section 668.16, paragraph (1). To be in compliance with this item, the institution must have a withdrawal rate that does not exceed 33 percent.

C. (1) The office shall review the placement rate of an institution subject to Code of Federal Regulations, title 34, section 668.8, paragraph (e)(1)(ii). To be in compliance with this subitem, the institution must have a placement rate equal to or greater than 70 percent.

(2) The office shall review the rate of placement of an institution's graduates in occupations related to educational programs not subject to Code of Federal Regulations, title 34, section 668.8, paragraph (e)(1)(ii). To be in compliance with this subitem, an institution must verify a placement rate of all graduates in a cohort for each vocational or professional program equal to or greater than 50 percent. For the purposes of this item, the terms in units (a) to (d) have the meanings given them.

(a) "Graduate" means an individual who has received a degree, diploma, or certificate for completion of a program during the most recent 12-month period that ended June 30 for which data are available.

(b) "Placement" means a graduate who within 12 months after graduation has reported:

- i. obtaining a paid position; and
- ii. the most important paid position is in a related occupation within the 12-month period following the graduate's date of graduation.

(c) "Occupations related to educational program" means employment in a related occupation as reported by the graduate, the graduate's parent or guardian, spouse or domestic partner, adult sibling, employer, or instructional staff at the institution. The placement rate of graduates in occupations related to their educational programs shall be based on the list of occupations in the NOICC (National Occupational Information Coordinating Committee) Master Crosswalk, August 29, 1994, National Crosswalk Service Center, Iowa SOICC, Des Moines, Iowa, which is incorporated by reference. It is available through the Minitex interlibrary loan system. It is subject to frequent change.

(d) "Rate of placement" means the number of graduates in a cohort who obtained employment related to their educational program as a percent of the total number of graduates in the cohort.

D. The office shall review the rate at which graduates of programs of an institution pass required licensure or other certification examinations. To be in compliance with this item, the passing rate of an institution's graduates on licensure or other certification examinations must be equal to or greater than 85 percent of the national or state passing rate. For the purposes of this item, the terms in subitems (1) to (4) have the meanings given them.

(1) "Program" means a vocational or professional program preparing students for an occupation which requires licensure or other certification by examination for entry into the occupation in Minnesota and completion of the program is required for admission to the examination.

(2) "Examination" means an examination administered by a national or state testing body, the state of Minnesota, or the federal government for licensure or other certification in a profession or occupation.

(3) "Graduates passing an examination" means the number of graduates from the institution that the testing agency or agencies report passed the examination during the most recent 12-month period ending June 30 for which data are available.

(4) "Passing rate" means the number of graduates who passed the examination as a percent of the number of graduates that the testing agency or agencies report took the examination.

E. The office shall review additional documentation that an institution provides to explain or expand on information required in this subpart.

Statutory Authority: *MS s 136A.04*

History: *20 SR 303; L 1995 c 212 art 3 s 59*

4890.0600 PRIORITY SYSTEM FOR REVIEWING REFERRED INSTITUTIONS.

Subpart 1. **Review.** The office shall establish an order of review for institutions either referred by the secretary of the United States Department of Education or identified by the office and approved for review by the secretary in accordance with Code of Federal Regulations, title 34, section 667.12.

Subp. 2. **Category A.** Category A includes referred institutions that the secretary has scheduled for recertification under Code of Federal Regulations, title 34, sections 668.11 to 668.25. The office shall review institutions according to items A to C.

A. The office shall review first those institutions referred for review on the basis of limitation, suspension, or termination under Code of Federal Regulations, title 34, section 667.5, paragraph (b)(4). These institutions shall be placed in priority from highest to lowest according to each institution's cohort default rate.

B. The office shall next review those institutions referred for review on the basis of audit findings under Code of Federal Regulations, title 34, section 667.5, paragraph (b)(5). These institutions shall be placed in priority from highest to lowest according to each institution's cohort default rate.

C. The office shall next review all other referred institutions scheduled for recertification. They shall be placed in priority from highest to lowest according to the institution's cohort default rate.

Subp. 3. **Category B.** Category B includes referred institutions that the secretary has not scheduled for recertification under Code of Federal Regulations, title 34, sections 668.11 to 668.25. The office shall review institutions according to items A to C.

A. The office shall review first those institutions referred for review on the basis of limitation, suspension, or termination under Code of Federal Regulations, title 34, section 667.5, paragraph (b)(4). These institutions shall be placed in priority from highest to lowest according to each institution's cohort default rate.

B. The office shall next review those institutions referred for review on the basis of audit findings under Code of Federal Regulations, title 34, section 667.5, paragraph (b)(5). These institutions shall be placed in priority from highest to lowest according to each institution's cohort default rate.

C. The office shall next review all other referred institutions not scheduled for recertification. They shall be placed in priority from highest to lowest according to the institution's cohort default rate.

Subp. 4. **Category C.** The office shall review last the referred institutions that no longer participate in Title IV programs.

Subp. 5. **Priority.** All institutions listed in category A shall be considered for review before the institutions listed in category B. Institutions within category A or B whose initial priority rating is the same shall be ranked according to the total Title IV funds received during the most recent academic year for which data are available. Institutions shall be placed in priority from highest to lowest according to total dollar volume received by the institution. All institutions listed in category B shall be considered for review before institutions listed in category C.

Statutory Authority: *MS s 136A.04*

History: *20 SR 303; L 1995 c 212 art 3 s 59*

4890.0700 OFFICE REVIEW AND NOTIFICATION PROCESS.

Subpart 1. **Notification of referral.** Within 30 calendar days of the date the office is notified by the United States Department of Education that an institution is referred, the office shall notify the institution by certified mail, return receipt requested, that it has been referred for review. The following documents shall be included as part of the initial notification:

- A. a copy of this chapter;
- B. written materials describing the review procedures that will be followed;
- C. materials the institution must have available for inspection during the review;
- D. procedures by which the office shall communicate its findings to the institution;

and

- E. procedures the institution must follow in responding to the office's findings.

An institution shall have 90 calendar days to gather the materials it must have available for inspection during the review unless an institution agrees to an earlier start date for the review.

Subp. 2. Priority for review. Institutions shall be reviewed in the order established under part 4890.0600.

Subp. 3. Notification of review. At least seven calendar days before the start date of the review, the office shall notify the institution by certified mail, return receipt requested, of its intent to conduct a review. The office also shall notify accrediting agencies of the referred institution of its intent to conduct a review.

Subp. 4. Time allowed for review. The review shall be completed within 90 calendar days of the start date of the review unless the institution or the reviewer requests, and the office grants, an extension of time to complete the review. The review is complete at the conclusion of an exit conference conducted by the reviewer at the referred institution.

Subp. 5. Initial report issued. Within 45 calendar days after the office completes its review, the office shall issue an initial report of findings to the institution. If the institution is not in compliance with the review standards in part 4890.0500, the initial report must cite each standard that is violated, describe the nature of the violation, and prescribe a course of action the institution must follow to correct the violation.

Subp. 6. Institution response to initial report. Within 30 calendar days after the institution receives by certified mail, return receipt requested, the initial report from the office, the institution must respond to the findings and prescribed corrective actions. If the institution does not respond within the 30-day period, the initial report becomes the final report, pursuant to Code of Federal Regulations, title 34, section 667.23, paragraph (f)(1)(ii).

Subp. 7. Draft final report issued. If the institution responds to the initial report, the office shall review the additional information provided by the institution and issue its draft final report to the institution, within 30 calendar days of receiving by certified mail, return receipt requested, the response of the institution to the initial report.

Subp. 8. Institution response to draft final report. The institution must respond no later than 30 calendar days after the institution receives by certified mail, return receipt requested, the draft final report from the office. If the institution does not respond within the 30-day period, the draft final report becomes the final report, pursuant to Code of Federal Regulations, title 34, section 667.23, paragraph (f)(1)(ii).

Subp. 9. Additional response time. An institution may request an additional 30 days to respond to the office's initial report and draft final report. The office shall approve these requests.

Subp. 10. Final report issued. Within 30 calendar days of receiving by certified mail, return receipt requested, the institution's response to the draft final report, the office shall review the institution's response to the draft final report, and shall issue its final report, including its notification to the secretary of the United States Department of Education, to the institution.

Subp. 11. Initial notification to secretary. Within 30 calendar days of issuing its final report to the referred institution, the office shall submit a copy of its final report to the secretary of the United States Department of Education and the accrediting agencies of the referred institution.

Subp. 12. Final notification to secretary. If the final report prescribes a course of action the institution must follow to correct violations cited during the review, the institution must respond within the time period prescribed in the final report. If the institution complies with the prescribed course of action, the office shall issue a final notification to the secretary of the United States Department of Education that the institution is in compliance with the

standards. If the institution does not comply with the prescribed course of action within the prescribed time period, the office shall initiate a proceeding as described in Code of Federal Regulations, title 34, section 667.23, paragraph (g), to terminate the institution's participation in Title IV programs pursuant to Code of Federal Regulations, title 34, section 667.25.

Statutory Authority: *MS s 136A.04*

History: *20 SR 303; L 1995 c 212 art 3 s 59*

4890.0800 CONSUMER COMPLAINT PROCESS.

Subpart 1. Consumer complaints; complaint records. Pursuant to the Higher Education Act of 1965, Title IV, part H, United States Code, title 20, section 1099a-3, paragraph (j), the office shall establish and publish the availability of procedures for receiving and responding to complaints regarding the review standards in part 4890.0500 and keep records of the complaints to determine their frequency and nature for specific institutions. Records regarding the number and nature of complaints shall be maintained by the office for each institution.

Subp. 2. Requirements for consumers filing a complaint.

A. For the purposes of this subpart and subpart 3, the terms in subitems (1) and (2) have the meanings given them.

(1) "Complaint" means a written statement of wrong, grievance, or injury pertaining to the standards in part 4890.0500 and filed with the office by an individual.

(2) "Written documentation" means information provided by an individual on a complaint form provided by the office.

B. An individual may receive information regarding how to file a complaint in person, via telephone, or by written request. Except when an individual alleges fraud, all complaints shall require written documentation.

C. If an individual alleges fraud, written documentation is not required and the individual need not follow the institution's complaint process. The office shall refer the individual to the United States Inspector General for the Department of Education.

D. A complaint form, designed by the office, shall include a data privacy waiver. The form shall provide space for information about the individual, including name and signature, the institution against which the complaint is filed, the nature of the complaint, a narrative section, and an invitation to provide supporting documentation.

E. A current student of an institution shall be required to affirm that all published internal complaint processes provided by the institution the student attends have been exhausted before the office shall act on the student's written complaint.

F. A complaint shall not be rejected because an individual chooses to remain anonymous. However, this item is notice to anonymous complainants that a request to remain anonymous potentially limits the office's ability to review a complaint fully.

Subp. 3. Requirements for the office.

A. Within ten working days of receiving a written complaint, the office shall notify the individual that the complaint was received. If necessary, the office may request further information. The office shall enter into a database maintained by the office complaint information from:

(1) current students who have affirmed that all published internal complaint processes provided by the institution the student attends have been exhausted; and

(2) other individuals.

B. The office shall refer the written complaint to the institution named in the complaint, an appropriate entity (for example, Minnesota Department of Commerce, Minnesota State Approving Agency for Veterans' Education, public governing boards, Minnesota Attorney General, Minnesota Department of Human Rights, United States Department of Education), or both.

C. The office shall forward allegations regarding fraud to the United States Inspector General for the Department of Education.

D. With the exception of allegations of fraud, the institution named in a complaint shall have the opportunity to respond to the complaint.

E. Referrals made by the office to institutions and other entities may require periodic follow-up by the office to determine the status of the complaint.

F. Within 90 days of receiving a written complaint that has not been addressed by the institution, the office shall issue a written notice to the individual and the institution named in the complaint, describing the status of the complaint.

G. The office shall maintain records of all complaints for at least five years from the end of the state fiscal year in which the complaint was received.

H. Complaints received by the office under Minnesota Statutes, chapter 141, and sections 136A.61 to 136A.71, shall be included in a database maintained by the office to determine whether a pattern of complaints has been established.

I. The office shall request that other entities which license institutions in Minnesota report complaints they have received in order to help determine a pattern of complaints.

Subp. 4. Pattern of complaints.

A. For the purposes of this subpart, the terms in subitems (1) to (3) have the meanings given them.

(1) "Fall term head count" means the number of students enrolled in courses at an institution creditable toward a diploma, certificate, degree, or other formal award, as reported on the most recent Integrated Postsecondary Education Data System, Fall Enrollment Survey, IPEDS-EF-2, June 1, 1994, Bureau of the Census, United States Department of Commerce, which is incorporated by reference. It is available through the Minitex interlibrary loan system. It is subject to frequent change.

(2) "Student" means an individual who is enrolled or was enrolled in an institution. For institutions subject to Minnesota Statutes, chapter 141, student also means any individual who is party to the contract on behalf of the student.

(3) "Pattern of complaints" means the following number of complaints by students received within any 12-month period:

(a) for an institution with a fall term head count of 1,500 students or less, 15 complaints; or

(b) for an institution with a fall term head count greater than 1,500, the head count multiplied by .01, rounded to the nearest whole number.

B. When a pattern of complaints against an institution is established, the office shall forward the complaints to the Secretary of the United States Department of Education, and notify the affected institution. Subsequent complaints received during the same 12-month period also shall be forwarded to the secretary.

Statutory Authority: *MS s 136A.04*

History: 20 SR 303; L 1995 c 212 art 3 s 59

4890.0900 OFFICE PEER REVIEW SELECTION PROCESS.

To conduct or coordinate a review of a referred institution, the office shall follow contracting procedures under Minnesota Statutes, chapter 16B. In determining whether a contractor is competent to assess educational programs, the office shall use the criteria and procedures in Code of Federal Regulations, title 34, section 667.24. The office shall also require a contractor to demonstrate an ability to review an institution's compliance with the standards in part 4890.0500.

Statutory Authority: *MS s 136A.04*

History: 20 SR 303; L 1995 c 212 art 3 s 59