

Potential Revisions to 690.96 (a) & (b) and 690.97(a)

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Rationale:

Insofar as § 690.93(b)(3) requires the Governor to incorporate an appeal process in the Governor's determination of eligibility, it may be useful to state explicitly that the Secretary may only act after a "final determination" by the Governor in instances where there is a pending appeal.

**§ 690.96 Loss of eligibility**

If an eligible workforce program fails to meet the requirements

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(a) Under 34 CFR 690.93, the program will become ineligible at the end of the payment period that begins following the date that-

(1) The Governor acts to withdraws approval for an eligible workforce program; or

(2) The Governor fails to reapprove the program.

(b) Under 34 CFR 690.94, the program will become ineligible at the end of the payment period that begins after the date that the Secretary determines that the institution failed to meet the completion rate or job placement rate requirements, except that the Secretary will not make such a determination while a program's eligibility, approval, or reported completion rate or job placement rate is in an appeal status or awaiting the Governor's final approval determination pursuant to 34 CFR 690.93 (b) (3) .

(c) Under 34 CFR 690.95, the program will become ineligible at the beginning of the award year following the release of the value-added earnings.

**§ 690.97 Regaining eligibility**

(a) If an eligible workforce program loses eligibility based on the Secretary's determination ~~failure of~~ that the program's completion rate or job placement rates failed to meet the requirements under 34 CFR § 690.94(a)(2) and after the Governor's final determination of the reported rate(s) pursuant to any appeal process established in accordance with 34 CFR 690.93(b)(3), or the institution voluntarily discontinues a failing eligible workforce program, the institution may not seek to reestablish the eligibility of the failing eligible workforce program, or to establish eligibility for a substantially similar eligible workforce program sharing the same four-digit CIP code, until two years following the earlier of the date the program loses eligibility under 34 CFR § 690.96(b) or the date the institution voluntarily discontinues the failing workforce program.

(b) If an eligible workforce program loses eligibility due to a ~~lack~~ loss of Governor approval described in (a) of this section, the program may reestablish eligibility after the Secretary receives the Governor's certification that the program has been approved as provided under 34 CFR 690.93(c).

