

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED) did not receive any comments on its adoption of the common rule. We adopt as the final suspension and debarment regulation of ED the common rule as proposed by ED in its notice of proposed rulemaking (NPRM) (January 23, 2002 (67 FR 3326–333)).

Generally, in the NPRM ED made changes and additions to the common rule to ensure that ED's programs under Title IV of the Higher Education Act of 1965, as amended (HEA), were protected as they have been in the past under ED's adoption of the original common rule. See the NPRM at 67 FR 3326 for a complete description of the ED changes to the Common Rule. The Secretary also chose to adopt the common rule so that procurement transactions below a nonprocurement transaction are covered under ED programs at any tier if the transaction equals or exceeds \$25,000 or requires consent of the Department. The Secretary has also clarified some of the common rule definitions in the context of the HEA.

Because this final rule reorganizes part 85 of title 34 of the Code of Federal Regulations (CFR), some of the cross references to this part in parts 668 and 682 of the CFR are obsolete. Therefore, the Secretary makes conforming amendments to parts 668 and 682 of the CFR so they refer to the proper provisions in part 85.

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#### List of Subjects

##### 4 CFR Part 84

Debarment and suspension, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

##### 34 CFR Part 85

Administrative practice and procedure, Debarment and suspension, Drug abuse, Grant programs, Loan programs, Reporting and recordkeeping requirements.

##### 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid.

##### 34 CFR Part 682

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: September 8, 2003.

**Rod Paige,**

*Secretary of Education.*

■ For the reasons stated in the common preamble and in the specific preamble of the Department of Education (ED), the Secretary amends title 34 of the Code of Federal Regulations by adding part 84, revising part 85, and amending parts 668 and 682 to read as follows:

■ 1. Part 84 is added to read as set forth in instruction 2 at the end of the common preamble.

#### **PART 84—GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)**

##### **Subpart A—Purpose and Coverage**

Sec.

84.100 What does this part do?

84.105 Does this part apply to me?

84.110 Are any of my Federal assistance awards exempt from this part?

84.115 Does this part affect the Federal contracts that I receive?

##### **Subpart B—Requirements for Recipients Other Than Individuals**

84.200 What must I do to comply with this part?

84.205 What must I include in my drug-free workplace statement?

84.210 To whom must I distribute my drug-free workplace statement?

84.215 What must I include in my drug-free awareness program?

84.220 By when must I publish my drug-free workplace statement and establish my drug-free awareness program?

84.225 What actions must I take concerning employees who are convicted of drug violations in the workplace?

84.230 How and when must I identify workplaces?

##### **Subpart C—Requirements for Recipients Who Are Individuals**

84.300 What must I do to comply with this part if I am an individual recipient?

84.301 [Reserved]

##### **Subpart D—Responsibilities of ED Awarding Officials**

84.400 What are my responsibilities as an ED awarding official?

##### **Subpart E—Violations of This Part and Consequences**

84.500 How are violations of this part determined for recipients other than individuals?

84.505 How are violations of this part determined for recipients who are individuals?

84.510 What actions will the Federal Government take against a recipient determined to have violated this part?

84.515 Are there any exceptions to those actions?

##### **Subpart F—Definitions**

84.605 Award.

84.610 Controlled substance.

84.615 Conviction.

84.620 Cooperative agreement.

84.625 Criminal drug statute.

84.630 Debarment.

84.635 Drug-free workplace.

84.640 Employee.

84.645 Federal agency or agency.

84.650 Grant.

84.655 Individual.

84.660 Recipient.

84.665 State.

84.670 Suspension.

**Authority:** E.O.s 12549 and 12689; 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327, unless otherwise noted.

■ 2. Part 84 is further amended as follows:

■ a. “[Agency noun]” is removed and “Department of Education” is added in its place wherever it occurs.

■ b. “[Agency adjective]” is removed and “ED” is added in its place wherever it occurs.

■ c. “[Agency head or designee]” is removed and “ED Deciding Official” is added in its place wherever it occurs.

■ d. “[Agency head]” is removed and “ED Deciding Official” is added in its place wherever it occurs.

■ 3. Section 84.510(c) is further amended by removing “[CFR citation for the Federal Agency’s regulations implementing Executive Order 12549 and Executive Order 12689]” and adding “34 CFR part 85” in its place.

■ 4. Section 84.605(a)(2) is further amended by removing “[Agency-specific CFR citation]” and adding “34 CFR part 85” in its place.

■ 5. Each section in part 84 is further amended by adding to the end of each section the following authority citation to read: