

Subpart H—Debarment

- 85.800 What are the causes for debarment?
- 85.805 What notice does the debarring official give me if I am proposed for debarment?
- 85.810 When does a debarment take effect?
- 85.811 When does a debarment affect title IV, HEA transactions?
- 85.815 How may I contest a proposed debarment?
- 85.820 How much time do I have to contest a proposed debarment?
- 85.825 What information must I provide to the debarring official if I contest a proposed debarment?
- 85.830 Under what conditions do I get an additional opportunity to challenge the facts on which the proposed debarment is based?
- 85.835 Are debarment proceedings formal?
- 85.840 How is fact-finding conducted?
- 85.845 What does the debarring official consider in deciding whether to debar me?
- 85.850 What is the standard of proof in a debarment action?
- 85.855 Who has the burden of proof in a debarment action?
- 85.860 What factors may influence the debarring official's decision?
- 85.865 How long may my debarment last?
- 85.870 When do I know if the debarring official debars me?
- 85.875 May I ask the debarring official to reconsider a decision to debar me?
- 85.880 What factors may influence the debarring official during reconsideration?
- 85.885 May the debarring official extend a debarment?

Subpart I—Definitions

- 85.900 Adequate evidence.
- 85.905 Affiliate.
- 85.910 Agency.
- 85.915 Agent or representative.
- 85.920 Civil judgment.
- 85.925 Conviction.
- 85.930 Debarment.
- 85.935 Debarring official.
- 85.940 Disqualified.
- 85.942 ED Deciding Official.
- 85.945 Excluded or exclusion.
- 85.950 Excluded Parties List System.
- 85.952 HEA.
- 85.955 Indictment.
- 85.960 Ineligible or ineligibility.
- 85.965 Legal proceedings.
- 85.970 Nonprocurement transaction.
- 85.975 Notice.
- 85.980 Participant.
- 85.985 Person.
- 85.990 Preponderance of the evidence.
- 85.995 Principal.
- 85.1000 Respondent.
- 85.1005 State.
- 85.1010 Suspending official.
- 85.1015 Suspension.
- 85.1016 Title IV, HEA participant.
- 85.1017 Title IV, HEA program.
- 85.1018 Title IV, HEA transaction.
- 85.1020 Voluntary exclusion or voluntarily excluded.

Subpart J—[Reserved]**Appendix to Part 85—Covered Transactions**

Authority: E.O. 12549 (3 CFR 1986 Comp., p.189); E.O. 12698 (3 CFR 1989 Comp., p.235); sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); 20 U.S.C. 1082, 1094, 1221e-3, and 3474, unless otherwise noted.

■ 7. Part 85 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. Each section in part 85 is further amended by adding to the end of each section the following authority citation to read:

Authority: E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235); 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327.

■ 8. Section 85.220 is further amended by adding new paragraphs (c) and (d) to read as follows.

§ 85.220 Are any procurement contracts included as covered transactions?

* * * * *

(c) The contract is awarded by any contractor, subcontractor, supplier, consultant or its agent or representative in any transaction, regardless of tier, that is funded or authorized under ED programs and is expected to equal or exceed \$25,000.

(d) The contract is to perform services as a third party servicer in connection with a title IV, HEA program.

■ 9. Section 85.310 is further amended by adding paragraph (c) to read as follows:

§ 85.310 What must I do if a Federal agency excludes a person with whom I am already doing business in a covered transaction?

* * * * *

(c) If you are a title IV, HEA participant, you may not continue a title IV, HEA transaction with an excluded person after the effective date of the exclusion unless permitted by 34 CFR 668.26, 682.702, or 668.94, as applicable.

■ 10. Section 85.315 is further amended by adding paragraph (c) to read as follows:

§ 85.315 May I use the services of an excluded person under a covered transaction?

* * * * *

(c) *Title IV, HEA transactions.* If you are a title IV, HEA participant—

(1) You may not renew or extend the term of any contract or agreement for the services of an excluded person as a principal with respect to a title IV, HEA transaction; and

(2) You may not continue to use the services of that excluded person as a principal under this kind of an agreement or arrangement more than 90 days after you learn of the exclusion or after the close of the Federal fiscal year in which the exclusion takes effect, whichever is later.

■ 11. Section 85.415 is further amended by adding a new paragraph (c) to read as follows.

§ 85.415 What must I do if a Federal agency excludes the participant or a principal after I enter into a covered transaction?

* * * * *

(c) *Title IV, HEA transactions.* If you are a title IV, HEA participant—

(1) You may not renew or extend the term of any contract or agreement for the services of an excluded person as a principal with respect to a title IV, HEA transaction; and

(2) You may not continue to use the services of that excluded person as a principal under this kind of an agreement or arrangement more than 90 days after you learn of the exclusion or after the close of the Federal fiscal year in which the exclusion takes effect, whichever is later.

■ 12. Subpart D of part 85 is further amended by adding § 85.440 to read as follows:

§ 85.440 What method do I use to communicate those requirements to participants?

(a) To communicate those requirements, you must include a term or condition in the transaction requiring each participant's compliance with subpart C of this part and requiring the participant to include a similar term or condition in lower-tier covered transactions.

(b) The failure of a participant to include a requirement to comply with Subpart C of this part in the agreement with a lower tier participant does not affect the lower tier participant's responsibilities under this part.

Authority: E.O. 12549 (3 CFR, 1985 Comp., p. 189); E.O. 12689 (3 CFR 1989 Comp., p. 235); 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455 of Pub. L. 103–355, 108 Stat. 3243 at 3327.

■ 13. Subpart F of part 85 is further amended by adding a new § 85.611 to read as follows: