

# Federal Student Aid

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SUBJECT: 90-Day CIO Notification Electronic Announcement Updated Guidance

Effective July 1, 2023, a [regulatory update](#)  requires schools to notify the Department of Education (the Department) at least 90 days in advance of a proposed change in ownership (CIO). An [additional regulatory update](#)  also requires schools to notify enrolled and prospective students of the proposed change at least 90 days in advance of a proposed CIO (90-Day Notification). The purpose of the 90-day advance notice is to prevent a lapse in *Title IV* funding which could result from incomplete or incorrect documentation being submitted in the required timeframes following a CIO, and to ensure that current and prospective students are aware of the planned change.

This Electronic Announcement (EA) provides updated guidance on the temporary process schools must follow to provide the 90-day Notification and replaces the guidance in [EA-GENERAL-23-77](#). The process includes notifying the Department of the CIO via the Electronic Application for Approval to Participate in the Federal Student Aid Programs (E-App); submission of state authorization and accrediting documents; copies of audited financial statements; and a copy of the student notification that was provided to students as required by [34 C.F.R. § 600.20\(g\)\(4\)](#) . The EA also includes information about reporting any subsequent changes to the proposed ownership structure at least 90 days prior to the date the CIO is to occur, and additional details on complying with the requirements of a materially complete application which must be submitted within 10 business days following the closing of the transaction. Future EAs will outline a permanent process. This updated Electronic Announcement also includes guidance on the consequences of a deficient 90-Day CIO Notification.

## Necessary Steps for Complying with the Notification Requirement

Until the Department releases updated instructions in a future EA, at least 90 days before a proposed CIO schools must submit notification via the E-App.

Below are step-by-step instructions schools must follow when completing the E-App:

- **Step 1** – Access the school’s E-App at <https://fsapartners.ed.gov/title-iv-program-eligibility/title-iv-participation-application>. In Step 1, check “Update/Report Information” as the reason you are submitting the application, select “Other Purpose,” and specify in the explanation box that the purpose is “90-day CIO Notification.”
- **Step 2** – Select Step 11, then select “Additional Information.” In the explanation box enter “90-day CIO Notification.” In addition, enter the anticipated closing date of the transaction. **Note:** The estimated date of the closing of the transaction may be no earlier than 90 days after the notification. For example, a notification reporting the CIO “transaction is expected to close **on or before** December 31, 2024” is not sufficient because it may or may not provide 90 days’ notice depending on when the notice is given and when the transaction closes. However, a notice which states that the “transaction is expected to close **on or after** December 31, 2024” would satisfy the requirement, so long as the notice is provided no later than October 2, 2024, which is 90 days before December 31.
- **Step 3** – Select Next and upload the required documents identified in the following section.
- **Step 4** – Select Step 13 and follow the directions to submit the E-App.

## Necessary Information and Attachments

Along with the E-App, the school must provide the Department with the information and attachments in the list below. When uploading in the E-App, select *Eligibility and Certification* as the Category, *Application Analysis* as the Sub-Category, and the appropriate Document Type for each document.

1. **A copy of the school's state license or equivalent documentation** that demonstrates that, as of the date of the notification, the school is authorized, or will be authorized, to provide a program of postsecondary education in the states in which it is physically located.

**NOTE:** As part of its materially complete application, within 10 business days following the closing of the transaction, the school will also be required to submit the state licensing documentation required by [34 C.F.R. § 600.20\(g\)\(3\)\(i\)](#) to demonstrate that – **as of the day before the CIO** – the school was authorized or will be authorized to provide a program of postsecondary education in the state(s) in which it is physically located. The submission of the school's state license which is dated in advance of the CIO to meet the notification requirement does not satisfy the requirement for the purposes of submitting a materially complete application to demonstrate state authorization as of the "day before the CIO" (even if submitted as part of the 90-day notification).

2. **A copy of the accrediting agency approval** that demonstrates that, as of the date of the notification, the school is accredited.

**NOTE:** As part of its materially complete application, within 10 business days following the closing of the transaction, the school will also be required to submit a copy of the documentation required by [34 C.F.R. § 600.20\(g\)\(3\)\(ii\)](#) to demonstrate that – **as of the day before the CIO** – the school was granted or will be granted accreditation status, including approval of all locations and any non-degree programs it offers. The submission of the school's proof of accreditation which is dated in advance of the CIO to meet the notification requirement does not satisfy the requirement for the purposes of submitting a materially complete application to demonstrate accreditation as of the "day before the CIO" (even if submitted as part of the 90-day notification).

3. **Audited financial statements for the school** for the two most recently completed fiscal years that are prepared in accordance with GAAP and audited in accordance with GAGAS as required by [34 C.F.R. § 668.23\(d\)](#). The audited financial statements must be for the two most recently completed fiscal years prior to the anticipated CIO date. If audited financial statements are not available, unaudited financial statements and an auditor's engagement letter may be submitted with the notification. However, audited financial statements will be required within 10 business days of the closing of the transaction to meet the requirements of a materially complete application.

**NOTE:** If the CIO is consummated via a transfer or creation of a membership interest or a transfer of stock (or an elimination of such interest), the school's financials should be submitted for the entity with the highest level of 100% ownership under the former ownership structure that will remain following the CIO. If separate financial statements for that entity do not exist, financial statements for a higher-level entity may be submitted, but only if they do not reflect any other institution, assets, operations, or activities that are not being transferred in the CIO.

If the CIO is a sale of the school's assets alone, and if separate school financial statements are not available, financial statements for the former Level 1 owner may be submitted, but only if the Level 1 owner's financial statements do not reflect any other institution, assets, operations, or activities that are not being transferred in the CIO. Otherwise, separate financial statements must be submitted.

The following will render the 90-Day Notification deficient:

- If the institution fails to submit its audited financial statements for the two most recently closed fiscal years or submits its audited financial statements at the wrong level;
- If the submitted audited financial statements, including those for foreign entities, are not in compliance with GAAP AND GAGAS; or
- If a foreign entity's audited financial statements are not translated into English prior to submission. Note: For any documentation prepared in a language other than English, a certification as to accuracy of the translation must also be provided.

Regardless of the timing of the closing of the transaction, the institution must submit its audited financial statements for the two most recently completed fiscal years to meet the requirements of a materially complete application even if the audited financial statements for the most recently completed fiscal year are not yet required to be submitted in accordance with 34 C.F.R. § 668.23(a)(4).

Financial protection is not an alternative to providing the institution's audited financial statements for the two most recently completed fiscal years.

4. **Audited financial statements for the new owner** for the two most recently completed fiscal years that are prepared in accordance with GAAP and audited in accordance with GAGAS as required by [34 C.F.R. § 668.23\(d\)](#). The audited financial statements must be for the two most recently completed fiscal years prior to the anticipated CIO date. If audited financial statements are not available, unaudited financial statements and an auditor's engagement letter may be submitted with the notification. However, audited financial statements will be required within 10 business days of the closing of the transaction to meet the requirements of a materially complete application.

**NOTE:** The new owner financial statements should be submitted at the highest unfractured (i.e., 100% ownership) level of ownership after the change of ownership. The financial statements should demonstrate continuous active business operations for both years.

The following will render the 90-Day Notification deficient:

- If the new owner fails to submit its audited financial statements for the two most recently closed fiscal years, or submits its audited financial statements at the wrong level;
- If the submitted audited financial statements, including those for foreign entities, are not in compliance with GAAP AND GAGAS; or
- If a foreign entity's audited financial statements are not translated into English prior to submission. Note: For any documentation prepared in a language other than English, a certification as to accuracy of the translation must also be provided.

Regardless of the timing of the closing of the transaction, the new owner must submit its financial statements for the two most recently completed fiscal years to meet the requirements of a materially complete application even if the audited financial statements are not yet required to be submitted in accordance with 34 C.F.R. § 668.23(a)(4) for any other institution owned by the new owner.

If the new owner's audited financial statements are not available at the time of the 90 Day Notification and will not be available for purposes of a materially complete application under 34 C.F.R. § 600.20(g)(3)(iv), the 90-Day Notification must include an acknowledgement that financial protection will be posted in accordance with 34 C.F.R. § 600.20(g)(3)(iv)(B).

5. **Copy of the CIO notification** that was provided to current and prospective students no later than 90 days prior to the change as required in [34 C.F.R. § 600.20\(g\)\(4\)](#). Please indicate the date and method of transmission on the copy of the student notice.

The institution must take reasonable steps to send this notice to both current and prospective students, which may be by electronic mail or by a prominent posting on the institution's website. If the institution posts the notice on its website, it must remain posted at least until the day the transaction closes. Posting a paper copy on a campus bulletin board without any other delivery is not sufficient.

To ensure that the correct audited financial statements are submitted with the notification, the Department also requests that the school submit the following information through Partner Connect as described above:

6. **Copy of the agreement (final if available or current draft)** by which the proposed CIO will be consummated. Include all schedules, appendices, exhibits, and any related documents or agreements (even if still in draft form).

7. **Ownership/interest holding structure diagram** showing the current ownership structure and the proposed ownership structure (i.e., the ownership structures before and after the transaction), including any interim steps. Include both entity owners/interest holders and natural persons. Each entity in the ownership/interest holding structure should be identified by full legal name exactly as it appears in the state or applicable foreign jurisdiction filing records; type of entity; state or applicable foreign jurisdiction of organization or incorporation; date of organization or incorporation; and tax ID number (TIN or EIN).

The ownership/interest holding structure diagram should identify all owners/interest holders up through the highest unfractured (100%) level, as well as any higher levels where the ownership/interests include related or affiliated parties that hold a combined 100% interest.

## Deficient 90-Day Notifications and Cure Period

For the submissions required by Items 1-4, the Department will notify the institution if it identifies any deficiencies that must be cured (e.g., the wrong level of financial statements or financial statements that are not GAAP/GAGAS). If the deficiency is not cured within 10 business days of the Department's notice of deficiency, the 90-day notification will be deemed incomplete, and the 90-day clock will not begin again until a compliant submission is made. However, the institution will be given credit for the time between its deficient 90-day notification and the Department's notice of deficiency.

There is no cure period if the institution fails to submit or transmit the Student Notice (Item 5). However, if the Department identifies errors in the Student Notice (Item 5), the Department will allow the same 10 business day cure period to correct and re-send the student notification.

Note that the 90-day notification is the *minimum* required notification to the Department and to students for a planned CIO. Given that a transaction may not close until 90 days after a complete 90-day notification is submitted, please submit the 90-day notification as soon as possible in advance of the 90-day lead time required, in case there are errors or corrections outside of the 10 business day cure period. If a notification is submitted on day 90 prior to the desired closing date, and the Department deems the notification incomplete, the transaction date would need to be delayed if Item 5 is not submitted or transmitted, or if any deficiencies in Items 1-4 are not cured within 10 business days.

## **Document Submission Requirements**

The E-App will direct the institution to upload documents supporting the information being reported on the 90-Day notification application and provide directions to accomplish the upload. Please identify the documents with the prefix for the item number (i.e., 90DN-01, 90DN-02, etc.). Additionally, please provide a copy of the documents [CIOdocuments@ed.gov](mailto:CIOdocuments@ed.gov) and [CaseTeams@ed.gov](mailto:CaseTeams@ed.gov).

## **Contact Information**

For questions concerning the 90-day notification requirement, contact your School Participation Division using the contact information on [Federal Student Aid's Partner Connect website](#) (cc: [CaseTeams@ed.gov](mailto:CaseTeams@ed.gov) and [CIODocuments@ed.gov](mailto:CIODocuments@ed.gov)).