90/10 REVENUE TEST

A proprietary school must disclose the percentage of its revenues derived from the FSA programs that the school received during the fiscal year covered by the audit as a footnote to its audited financial statements. The school must also report in the footnote the dollar amount of the numerator and denominator of its 90/10 ratio as well as the individual revenue amounts identified in section 2 of appendix C to subpart B of part 668 (see sidebar).

A school that converts from a for-profit to a nonprofit status must report its compliance with the 90/10 revenue test for the first year after its conversion.

To be eligible for FSA participation, a proprietary school must derive at least 10% of its revenues for each fiscal year from sources other than the FSA programs, or be subject to sanctions. The calculation of this percentage and the funds included must be arrived at using the cash basis of accounting. A school must determine its revenue percentages using the formula described in the chart on the following pages each fiscal year.

Proprietary schools have 45 days after their most recent fiscal year has ended to report to the Department if they did not satisfy the 90/10 Rule for that period. A school changing from for-profit to nonprofit must continue to file this report for the first year of its nonprofit status.

A school that fails to meet the 90/10 requirement must notify the Department no later than 45 days after the end of its fiscal year that it failed to meet this requirement.

• If a school fails to satisfy the 90/10 rule for any fiscal year, it becomes provisionally certified for up to two fiscal years after the fiscal year it failed to satisfy the revenue requirement. (Among other factors, the provisional certification is limited by the expiration date of the school’s program participation agreement.)

• If a school fails to satisfy the 90/10 rule for two consecutive fiscal years, it loses its eligibility to participate in the FSA programs for at least two fiscal years.

If the school loses eligibility, it must immediately stop awarding FSA funds and follow the closeout procedures described in Chapter 9.
Counting revenues for the 90/10 rule

Section 668.28(a) of the Student Assistance General Provisions provides the following explanation of how to count revenue from FSA vs. non-FSA sources: See Appendix C of Subpart B of the Student Assistance General Provisions for calculation procedures.

(3) Revenue generated from programs and activities.
The institution must consider as revenue only those funds it generates from—

(i) Tuition, fees, and other institutional charges for students enrolled in eligible programs as defined in §668.8;
(ii) Activities conducted by the institution that are necessary for the education and training of its students provided those activities are—
   (A) Conducted on campus or at a facility under the institution's control;
   (B) Performed under the supervision of a member of the institution's faculty; and
   (C) Required to be performed by all students in a specific educational program at the institution; and
(iii) Funds paid by a student, or on behalf of a student by a party other than the institution, for an education or training program that is not eligible under §668.8 if the program—
   (A) Is approved or licensed by the appropriate State agency;
   (B) Is accredited by an accrediting agency recognized by the Secretary under 34 CFR part 602;
   (C) Provides an industry-recognized credential or certification, or prepares students to take an examination for an industry-recognized credential or certification issued by an independent third party;
   (D) Provides training needed for students to maintain State licensing requirements; or
   (E) Provides training needed for students to meet additional licensing requirements for specialized training for practitioners that already meet the general licensing requirements in that field.

(4) Application of funds.
The institution must presume that any Title IV, HEA program funds it disburses, or delivers, to or on behalf of a student will be used to pay the student's tuition, fees, or institutional charges, regardless of whether the institution credits the funds to the student's account or pays the funds directly to the student, except to the extent that the student's tuition, fees, or other charges are satisfied by—

(i) Grant funds provided by non-Federal public agencies or private sources independent of the institution;
(ii) Funds provided under a contractual arrangement with a Federal, State, or local government agency for the purpose of providing job training to low-income individuals who need that training;
(iii) Funds used by a student from a savings plan for educational expenses established by or on behalf of the student if the savings plan qualifies for special tax treatment under the Internal Revenue Code of 1986; or
(iv) Institutional scholarships that meet the requirements in paragraph (a)(5)(iv) of this section.

(5) Revenue generated from institutional aid.
The institution must include the following institutional aid as revenue:

(i) For loans made to students after July 1, 2008, include as revenue only the amount of payments made on those loans that the institution received during the fiscal year.
(ii) For loans made to students before July 1, 2008, include as revenue only the amount of payments made on those loans that the institution received during the fiscal year.
(iv) For scholarships provided by the institution in the form of monetary aid or tuition discount and based on the academic achievement or financial need of its students, include as revenue the amount disbursed to students during the fiscal year. The scholarships must be disbursed from an established restricted account and only to the extent that the funds in that account represent designated funds from an outside source or income earned on those funds.

(6) Revenue generated from loan funds in excess of loan limits prior to the Ensuring Continued Access to Student Loans Act of 2008 (ECASLA).
For each student who receives an unsubsidized loan under the FFEL or Direct Loan programs on or after July 1, 2008 and prior to July 1, 2011, the amount of the loan disbursement for a payment period that exceeds the disbursement for which the student would have been eligible for that payment period under the loan limit in effect on the day prior to enactment of the ECASLA is included and deemed to be revenue from a source other than Title IV, HEA program funds but only to the extent that the excess amount pays for tuition, fees, or institutional charges remaining on the student's account after other Title IV, HEA program funds are applied.
(7) Funds excluded from revenues.
For the fiscal year, the institution does not include—
(i) The amount of Federal Work Study (FWS) wages paid directly
to the student. However, if the institution credits the student’s
account with FWS funds, those funds are included as revenue;
(ii) The amount of funds received by the institution from a State
under the LEAP, SLEAP, or GAP programs;
(iii) The amount of institutional funds used to match Title IV, HEA
program funds;
(iv) The amount of Title IV, HEA program funds refunded or
returned under §668.22. If any funds from the loan disbursement
used in the return calculation under §668.22 were counted as
non-title IV revenue under paragraph (a)(6) of this section, the
amount of Title IV, HEA program funds refunded or returned
under §668.22 is considered to consist of pre-ECASLA loan
amounts and loan amounts in excess of the loan limits prior to
ECASLA in the same proportion to the loan disbursement; or
(v) The amount the student is charged for books, supplies, and
equipment unless the institution includes that amount as tuition,
fees, or other institutional charges.

Revenues from loans
When a school makes a loan to a student, it does not receive cash
from an outside source. Accordingly, cash revenue from institutional
loans is recognized only when those loans are repaid, because
that is when there is an inflow of cash from an outside source.
Loan proceeds from institutional loans that were disbursed to
students may not be counted in the denominator of the fraction,
because these proceeds neither generate nor represent actual
inflows of cash. The school may include only loan repayments it
received during the appropriate fiscal year for previously disbursed
institutional loans.

Other 90/10 guidance

Cash basis of accounting
Except for institutional loans made to students under 34 CFR
668.28(a)(5)(i), a proprietary school must use the cash basis of
accounting in calculating its revenue percentage under the 90/10
Rule. Under the cash basis of accounting, revenue is recognized
when received rather than when it is earned.

Revenue
For the purpose of calculating the qualifying percentages under
the 90/10 Rule, revenue is an inflow or other enhancement of
assets to an entity, or a reduction of its liabilities resulting from
the delivery or production of goods or services. A school may
recognize revenue only when the school receives cash, i.e.,
when there is an inflow of cash. As a result, in order for a school
to recognize revenue under the cash basis of accounting, that
revenue must represent cash received from a source outside the
institution.

Tuition waivers
Institutional grants in the form of tuition waivers do not count as
revenue because no new revenue is generated. Similarly, internal
transfers of cash among accounts are not considered revenue
because they do not represent an inflow to the institution.
Institutional scholarships are not revenues generated by the
school (unless they are donated by an unrelated or outside third
party). An exception is permitted for schools to use donations
from a related party to create restricted accounts for institutional
scholarships, but only the amount earned on the restricted
account and used for scholarships would count as revenue in the
denominator of the calculation.

Funds held as credit balances in institutional accounts cannot be
 counted in the 90/10 formula. However, once funds held as credit
balances are used to satisfy institutional charges, they would
be counted in both the numerator and the denominator of the
formula.