

Action Item

California Student Aid Commission

Consideration of Menlo College appeal

Menlo College is appealing the Commission's determination that it is ineligible to participate in the Cal Grant Program for the 2013-14 academic year.

Institutions that participate in the Cal Grant Program must meet the statutory definition of "qualifying institution" found in the Education Code. Over the last two years, significant amendments to this section of law have added certain thresholds relating to the 3-year cohort default rate (CDR) and graduation rate that institutions with more than 40% of its students utilizing federal student loans must now meet every year in order to participate in the Cal Grant program. An institution that fails to meet either the CDR or graduation rate threshold is ineligible to participate in the Cal Grant program until it can satisfy both requirements. Institutions with less than 40% of its student population borrowing federal student loans do not have to meet these thresholds.

As required by law, the Commission certifies a CDR and graduation rate for all institutions that seek to participate in the Cal Grant Program no later than October 1st for the academic year commencing the following July 1st. The Commission publishes lists for both eligible institutions and ineligible institutions and notifies Cal Grant students attending ineligible institutions that the institution will be ineligible for Cal Grant awards for the upcoming academic year. Cal Grant recipients who choose to transfer institutions can use their awards at another eligible institution.

On October 1, 2012, the Commission certified the 3-year cohort default rate (CDR) and graduation rates for the 2013-14 academic year. Among the institutions certified was Menlo College, a private non-profit college located in Atherton, CA that was certified with 51% percent of its students to be federal student loan borrowers, a CDR of 15.6 and a graduation rate of 34.2%. Menlo College's CDR of 15.6 exceeded the CDR threshold of 15.5 and, as a result, Menlo College is ineligible to participate in the Cal Grant program for 2013-14.

On April 25, 2013, Menlo College appealed the Commission's finding that it was ineligible for the Cal Grant Program. The basis of Menlo College's appeal was that an error was made by a loan servicer who included a student

in the wrong cohort. As a result, Menlo College believes that it should have a CDR of 15.1, not 15.6, and should be eligible for participation. (See Tab 4.a)

The Commission has not, over the last two years, considered appeals from institutions that have not met the CDR or graduation rate thresholds. The statute creating these thresholds provides that the Commission “shall certify by October 1 of each year the institution’s latest three-year cohort default rate and graduation rate as most recently reported by the United States Department of Education.” Because the Commission must certify rates that have been reported by United States Department of Education (USDE), the Commission does not appear to have the legal authority to certify a rate other than that which has been reported by USDE. Further support for this conclusion is that fact that the law does provide a mechanism for the Commission to correct or revise an institution’s CDR or graduation rate if the USDE makes the correction or revision first.

The Commission has received a letter dated April 23, 2013 from the Under Secretary of the USDE regarding Menlo College. (See Tab 4.b) In summary, that letter indicates that had Menlo College timely availed itself of the federal process for correcting its CDR with USDE, it is likely that a student could have been removed from the cohort and the resulting CDR would have been lower. However, USDE has not corrected or revised Menlo College’s CDR. It has only informed the Commission that with timely action by Menlo College, it likely would have made an adjustment to Menlo College’s CDR.

As staff, we are recommending that the Commission deny the appeal of Menlo College. Although Menlo College may have met the CDR threshold, it failed to timely seek the appropriate remedy through USDE which would have allowed USED to correct or revise its CDR. This action by USDE would have triggered the statutory provision allowing the Commission to change its certification.

Recommended Action: Deny the appeal of Menlo College for a correction/revision of its 3-year cohort default rate to be applicable to the 2013-14 academic year.

Responsible Person(s): Catalina Mistler, Chief
Program Administration and Services Division

Keri Faseler Tippins, General Counsel
Legal and Audit Services



April 25, 2013

Mr. John R. McDowell, Jr., Chair
 California Student Aid Commission
 PO Box 419026
 Rancho Cordova, CA 95741-9026

Dear Chair McDowell:

The Under Secretary of the US Department of Education Martha Kanter recently wrote you to confirm that the 2009 3-year official Cohort Default Rate (CDR) for Menlo College was reported incorrectly. A copy of Under Secretary Kanter's letter is attached.

The error was made by a loan servicer who included a student in the wrong cohort. As a result, Menlo College's USDE 2009, 3-year CDR was incorrectly reported to the California Student Aid Commission as 15.6%. The guarantor has corrected the error, and as a consequence our 2009, 3-year CDR should be restated as 15.15%.

Because California requires that an institution's 3-year CDR rate be below 15.5% in order to be eligible to receive Cal Grant funds, the error made in the calculation of our CDR has deemed our college ineligible to receive Cal Grant aid beginning June 30, 2013. The error makes a world of difference to our students and to the college.

I am painfully aware of my institution's culpability in having failed to appeal our CDR within the allowed timeframe. However, this timeframe became somewhat of a moving target; at the time our financial aid director checked our "pre-error" status, our CDR was 14.6%. Between that time and the end-of-year notice from the CSAC, the error contributed to an incorrect CDR of 15.6%.

My appeal is on behalf of 98 low-to-moderate income students who will lose their opportunity to continue at Menlo College after this academic year if the CDR that was reported in error stands. As well, absent the ability to receive Cal Grant funds, Menlo College will be unable to accept new Cal Grant dependent students; in all, past trends suggest that the loss of the College's eligibility will have an impact on as many as 135 students across California.

The loss of the Cal Grant program at Menlo places at risk the college education for first-generation and ethnic minority, academically-qualified undergraduates -- for whom access to and persistence in college is already challenging. I am hoping the California Student Aid Commission will accept the restatement of the 2009 3-year CDR for Menlo College to 15.15% so that we can continue to make possible a degree from Menlo College to low-to-moderate income students in California.

I appeal to the California Student Aid Commission to immediately restore Cal Grant eligibility for Menlo College. Your help in this urgent matter is greatly appreciated. I can be reached via email at jkelly@menlo.edu, or directly at (510) 688-1544.

Sincerely,

A handwritten signature in black ink that reads "James J. Kelly". The signature is written in a cursive style with a large initial "J" and "K".

James J. Kelly, Ph.D.
President



UNITED STATES DEPARTMENT OF EDUCATION

THE UNDER SECRETARY

April 23, 2013

Mr. John R. McDowell, Jr., Chair
California Student Aid Commission
P.O. Box 419026
Rancho Cordova, CA 95741-9026

Dear Chair McDowell:

The U.S. Department of Education (the Department) was recently made aware that there was an item of data which Menlo College could have challenged had they availed themselves of the Department's challenge and appeal processes. Specifically, Menlo College's 2009 3-Year Official Cohort Default Rate (CDR) was 15.6 percent. However, under federal program rules in effect, had Menlo College put forward its contentions regarding this item of data in a timely manner, one student could have been removed from the cohort, which would have resulted in a lower CDR.

The Department acknowledges that if Menlo College had, within the required time frame, put forward its contentions regarding this student through the Department's established CDR challenge and appeal process and the Department had reviewed and approved Menlo's assertions, the 2009 Official 3-Year CDR for Menlo College would have likely been below the 15.5 percent Cal Grant Program requirement. The Department recognizes that Cal Grant Program eligibility is an issue of State law, which remains for the State of California to resolve.

If you have any questions, please contact Alejandra Ceja at alexandra.ceja@ed.gov.

Sincerely,

A handwritten signature in blue ink that reads "Martha J. Kanter".

Martha J. Kanter