

## § 682.604

## 34 CFR Ch. VI (7-1-02 Edition)

annual loan limits under § 682.401(b)(2)(ii); or

(ii) For a defaulted borrower who has regained eligibility under § 682.401(b)(4), the academic year in which the borrower regained eligibility.

(3) In certifying a Stafford or SLS loan amount in accordance with § 682.204—

(i) A program of study must be considered at least one full academic year if—

(A) The number of weeks of instruction time is at least 30 weeks; and

(B) The number of clock hours is at least 900, the number of semester or trimester hours is at least 24, or the number of quarter hours is at least 36.

(ii) A program of study must be considered two-thirds  $\frac{2}{3}$  of an academic year if—

(A) The number of weeks of instruction time is at least 20 weeks; and

(B) The number of clock hours is at least 600, the number of semester or trimester hours is at least 16, or the number of quarter hours is at least 24.

(iii) A program of study must be considered one-third  $\frac{1}{3}$  of an academic year if—

(A) The number of weeks of instruction time is at least 10 weeks; and

(B) The number of clock hours is at least 300, the number of semester or trimester hours is at least 8, or the number of quarter hours is at least 12.

(4) In prorating a loan amount for a student enrolled in a program of study with less than a full academic year remaining, the school need not recalculate the amount of the loan if the number of hours for which an eligible student is enrolled changes after the school certifies the loan.

(g)(1) A school must cease certifying loans based on the exceptions in § 682.604(c)(5)(i) and § 682.604(c)(10)(i) no later than—

(i) 30 days after the date the school receives notification from the Secretary of an FFEL cohort default rate, calculated under subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in those paragraphs; or

(ii) October 1, 2002.

(2) A school must cease certifying loans based on the exceptions in § 682.604(c)(5)(ii) and § 682.604(c)(10)(ii)

no later than 30 days after the date the school receives notification from the Secretary of an FFEL cohort default rate, calculated under subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in those paragraphs.

(h) A school may not assess the borrower, or the student in the case of a PLUS loan, a fee for the completion or certification of any FFEL Program form or information or for providing any information necessary for a student or parent to receive a loan under part B of the Act or any benefits associated with such a loan.

(i) *Requesting loan proceeds.* Pursuant to paragraph (b)(3) of the section, a school may not request the disbursement by the lender for loan proceeds earlier than the period specified in § 668.167.

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(Authority: 20 U.S.C. 1077, 1078, 1078-1, 1078-2, 1082, 1085, 1094)

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### § 682.604 Processing the borrower's loan proceeds and counseling borrowers.

(a) *General.* (1) This section establishes rules governing a school's processing of a borrower's Stafford or PLUS loan proceeds, and for counseling borrowers. The school shall also comply with any rules for processing a loan contained in 34 CFR part 668.

(2) Prior to a school delivering or crediting an FFEL loan account by EFT or master check, the school must provide the student or parent borrower with the notice as described under § 668.165.

(3) Except as provided in § 668.167, if the school is placed under the reimbursement payment method, a school shall not disburse a loan.

(b) *Releasing loan proceeds.* (1) Except as provided in § 682.207(b)(1)(v)(C)(I) and (D)(I), the proceeds of a Stafford or PLUS loan disbursed using electronic

transfer of funds must be sent directly to the school by the lender.

(2)(i) Except in the case of a late disbursement under paragraph (e) of this section or as provided in paragraph (b)(2)(iii) or (iv) of this section, a school may release the proceeds of any disbursement of a loan only to a student whom the school determines has maintained continuous eligibility in accordance with the provisions of § 682.201 for the loan period certified by the school on the student's loan application.

(ii) [Reserved]

(iii) If, after the proceeds of the first disbursement are transmitted to the student, the student becomes ineligible due solely to the school's loss of eligibility to participate in the Title IV programs, the school may transmit the proceeds of the second or subsequent disbursement to the borrower as permitted by § 668.26.

(iv) If, prior to the transmittal of the proceeds of a disbursement to the student, the student temporarily ceases to be enrolled on at least a half-time basis, the school may transmit the proceeds of that disbursement and any subsequent disbursement to the student if the school subsequently determines and documents in the student's file—

(A) That the student has resumed enrollment on at least a half-time basis;

(B) The student's revised cost of attendance; and

(C) That the student continues to qualify for the entire amount of the loan, notwithstanding any reduction in the student's cost of attendance caused by the student's temporary cessation of enrollment on at least a half-time basis.

(c) *Processing of the loan proceeds by the school.* (1) Except as provided in paragraph (c)(3) of this section, if a school receives a borrower's loan proceeds, it shall hold the funds until the student has registered for classes for the period of enrollment for which the loan is intended and then follow the procedures in paragraph (c) (2) of this section.

(2)(i) Except as provided in § 682.207(b)(1)(v)(C)(I) and (D)(I), after the student has registered, if the loan proceeds are disbursed by means of a

check that requires the endorsement of the student only, the school shall deliver the check to the student, subject to paragraph (d)(2) of this section, within 30 days of the school's receipt of the check.

(ii) If the loan proceeds are disbursed by means of a check that requires the endorsement of both the borrower and the school, the school shall—

(A) In the case of the initial disbursement on a loan, endorse the check on its own behalf, and, after the student has registered, deliver it to the student subject to paragraph (d)(2) of this section, within 30 days of the school's receipt of the check; or

(B) Obtain the borrower's endorsement on the check, endorse the check on its own behalf and, after the student has registered, credit the student's account, in accordance with paragraph (d)(1) of this section, and deliver the remaining loan proceeds to the student, as specified in § 668.164(e).

(3) If the loan proceeds are disbursed by electronic funds transfer to an account of the school in accordance with § 682.207(b)(1)(ii)(B), or by master check in accordance with § 682.207(b)(1)(ii)(C), the school must, unless authorization was provided in the loan application or MPN, obtain the student's, or in the case of a PLUS loan, the parent borrower's written authorization for the release of the initial and any subsequent disbursement of each FFEL loan to be made, and after the student has registered either—

(i) Deliver the proceeds to the student or parent borrower as specified in § 668.164; or

(ii) Credit the student's account in accordance with paragraph (d)(1) of this section and § 668.164, notify the student or parent borrower in writing that it has so credited that account, and deliver to the student or parent borrower the remaining loan proceeds not later than the timeframe specified in 668.164.

(4) A school may not credit a student's account or release the proceeds of a loan to a student who is on a leave of absence, as described in § 668.22(d).

(5) A school may not release the first installment of a Stafford loan for endorsement to a student who is enrolled in the first year of an undergraduate

program of study and who has not previously received a Stafford, SLS, Direct Subsidized, or Direct Unsubsidized loan until 30 days after the first day of the student's program of study unless—

(i) The school in which the student is enrolled has a cohort default rate, calculated under subpart M of 34 CFR part 668, of less than 10 percent for each of the three most recent fiscal years for which data are available;

(ii) The school is an eligible home institution certifying a loan to cover the student's cost of attendance in a study abroad program and has a cohort default rate, calculated under subpart M of 34 CFR part 668, of less than 5 percent for the single most recent fiscal year for which data are available; or

(iii) The school is not in a State.

(6) Unless the provision of § 682.207(d) or the provisions of paragraph (c)(7) of this section apply—

(i) If a loan period is more than one payment period, the school must deliver loan proceeds at least once in each payment period; and

(ii) If a loan period is one payment period, the school must make at least two deliveries of loan proceeds during that payment period. The school may not make the second delivery until the calendar midpoint between the first and last scheduled days of class of the loan period.

(7)(i) If a school measures academic progress in an educational program in credit hours and either does not use terms or does not use terms that are substantially equal in length for a loan period, the school may not deliver a second disbursement until the later of—

(A) The calendar midpoint between the first and last scheduled days of class of the loan period; or

(B) The date, as determined by the school, that the student has completed half of the academic coursework in the loan period.

(ii) For purposes of paragraph (c)(7) of this section, terms in a loan period are substantially equal in length if no term in the loan period is more than two weeks longer than any other term in that loan period.

(8) If an educational program measures academic progress in clock hours,

the school may not deliver a second disbursement until the later of—

(i) The calendar midpoint between the first and last scheduled days of class of the loan period; or

(ii) The date, as determined by the school, that the student has completed half of the clock hours in the loan period.

(9) The school must deliver loan proceeds in substantially equal installments, and no installment may exceed one-half of the loan.

(10) Notwithstanding the requirements of paragraphs (c)(6)–(c)(9) of this section, a school is not required to deliver loan proceeds in more than one installment if—

(i)(A) The student's loan period is not more than one semester, one trimester, one quarter, or, for non term-based schools or schools with non-standard terms, 4 months; and

(B) The school in which the student is enrolled has a cohort default rate, calculated under subpart M of 34 CFR part 668, of less than 10 percent for each of the three most recent fiscal years for which data are available;

(ii) The school is an eligible home institution certifying a loan to cover the student's cost of attendance in a study abroad program and has a cohort default rate, calculated under subpart M of 34 CFR part 668, of less than 5 percent for the single most recent fiscal year for which data are available; or

(iii) The school is not in a State.

(11) A school may deliver loan proceeds in accordance with paragraphs (c)(5) and (c)(10) of this section, if the school certified the loan prior to the deadline as provided for in § 682.603(g).

(d) *Applying the loan proceeds.* (1)(i) For purposes of paragraphs (c)(2)(ii)(B) and (c)(3)(ii) of this section, a school may not credit a registered student's account earlier than the period specified in § 668.164.

(ii)(A) The school may credit a registered student's account with only those loan proceeds covering costs specified in § 668.164.

(B) The school, as a fiduciary for the benefit of the guaranty agency, the Secretary, and the student, may hold any additional loan proceeds that the student requests in writing that the

school retain in order to assist the student in managing his or her loan funds for the remainder of the academic year. The school shall maintain these funds, as provided in § 668.165(b)(5).

(2) For purposes of paragraphs (c)(2)(i), (c)(2)(ii) and (c)(3) of this section, a school may not deliver loan proceeds earlier than the timeframe specified in § 668.164.

(3) If a student does not register for the period of enrollment for which the loan was made, or a registered student withdraws or is expelled prior to the first day of classes of the period of enrollment for which the loan is made, the school shall return the proceeds to the lender no later than the period specified in § 668.167.

(4) If the school is unable for any other reason to document that a registered student attended school during the period of enrollment for which the loan is made, the school must determine the student's withdrawal date as required under § 682.605, and by the deadline described under § 682.605, within 30 days of the period described in § 682.607(c) shall notify the lender of the student's withdrawal, expulsion, or failure to attend school, if applicable, and return to the lender—

(i) Any loan proceeds credited directly by the school to the student's account; and

(ii) The amount of payments made directly by the student to the school, to the extent that they do not exceed the amount of any loan proceeds delivered by the school to the student.

(e) *Processing a late disbursement.* (1) A school may process a late disbursement received from a lender under § 682.207(f) in accordance with § 668.164(g).

(2) If the total amount of the late disbursement and all prior disbursements is greater than that portion of the borrower's educational charges, the school shall return the balance of the borrower's loan proceeds to the lender with a notice certifying—

(i) The beginning and ending dates of the period during which the borrower was enrolled at the school as an eligible student during the loan period or payment period; and

(ii) The borrower's corrected financial need for the loan for that period of enrollment or payment period.

(f) *Initial counseling.* (1) A school must conduct initial counseling with each Stafford loan borrower either in person, by audiovisual presentation, or by interactive electronic means prior to its release of the first disbursement, unless the student borrower has received a prior Stafford, SLS, or Direct loan. A school must ensure that an individual with expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions regarding those programs. As an alternative, in the case of a student borrower enrolled in a correspondence program or a student borrower enrolled in a study-abroad program that the home institution approves for credit, the school may provide the counseling through written materials, prior to releasing those loan proceeds.

(2) In conducting the initial counseling, the school must—

(i) Explain the use of a Master Promissory Note;

(ii) Emphasize to the student borrower the seriousness and importance of the repayment obligation the student borrower is assuming;

(iii) Describe in forceful terms the likely consequences of default, including adverse credit reports and litigation; and

(iv) In the case of a student borrower of a Stafford loan (other than a loan made or originated by the school), emphasize that the student borrower is obligated to repay the full amount of the loan even if the student borrower does not complete the program, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services that the student borrower purchased from the school.

(3) A school that conducts initial counseling through interactive electronic means must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes the initial counseling.

(4) A school must maintain documentation substantiating the school's compliance with this section for each student borrower.

(g) *Exit counseling.* (1) A school must conduct exit counseling with each Stafford loan borrower either in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must conduct this counseling shortly before the student borrower ceases at least half-time study at the school. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program that the home institution approves for credit, the school may provide written counseling materials by mail within 30 days after the student borrower completes the program. If a student borrower withdraws from school without the school's prior knowledge or fails to complete an exit counseling session as required, the school must provide exit counseling through either interactive electronic means or by mailing written counseling materials to the student borrower at the student borrower's last known address within 30 days after learning that the student borrower has withdrawn from school or failed to complete the exit counseling as required.

(2) In conducting the exit counseling, the school must—

(i) Inform the student borrower of the average anticipated monthly repayment amount based on the student borrower's indebtedness or on the average indebtedness of student borrowers who have obtained Stafford or SLS loans for attendance at that school or in the student borrower's program of study;

(ii) Review for the student borrower available repayment options (e.g., loan consolidation, refinancing of SLS loans);

(iii) Suggest to the student borrower debt-management strategies that the school determines would best assist repayment by the student borrower;

(iv) Include the matters described in paragraph (f)(2) of this section;

(v) Review with the student borrower the conditions under which the student borrower may defer repayment or obtain a full or partial cancellation of a loan;

(vi) Require the student borrower to provide corrections to the institution's records concerning name, address, so-

cial security number, references, and driver's license number, as well as the student borrower's expected permanent address, the address of the student borrower's next of kin, and the name and address of the student borrower's expected employer, that will then be provided within 60 days to the guaranty agency or agencies listed in the student borrower's records; and

(vii) Review with the student borrower information on the availability of the Student Loan Ombudsman's office.

(3) A school that conducts exit counseling by electronic interactive means must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes the counseling.

(4) The school must maintain documentation substantiating the school's compliance with this section for each student borrower.

(h) *Treatment of excess loan proceeds.* Except as provided under paragraph (i) of this section, or in the case of a student attending a foreign school, if, before the delivery of any Stafford or SLS loan disbursement, the school learns that the borrower will receive or has received financial aid for the period of enrollment for which the loan was made that exceeds the amount of assistance for which the student is eligible, the school shall reduce or eliminate the overaward by either—

(1) Using the student's SLS, PLUS, unsubsidized or unsubsidized Stafford, or State-sponsored or private loan to cover the expected family contribution, if not already done;

(2)(i) Returning the entire undelivered disbursement to the lender or escrow agent; and

(ii) Providing the lender with a written statement—

(A) Describing the reason for the return of the funds, if any;

(B) Setting forth the student's revised financial need; and

(C) Directing the lender to re-disburse a revised amount and, if necessary, revise subsequent disbursements to eliminate the overaward; or

(3) Returning to the lender any portion of the disbursement for which the student is ineligible and providing the

lender with a written statement explaining the return of the funds.

(i) For purposes of paragraph (h) of this section, funds obtained from any Federal College Work-Study employment that do not exceed the borrower's financial need by more than \$300 may not be considered as excess loan proceeds.

(Approved by the Office of Management and Budget under control number 1845-0020)

(Authority: 20 U.S.C. 1077, 1078, 1078-1, 1082, 1085, 1092, 1094)

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**§ 682.605 Determining the date of a student's withdrawal.**

(a) Except in the case of a student who does not return for the next scheduled term following a summer break, which includes any summer term or terms in which classes are offered but students are not generally required to attend, a school must follow the procedures in § 668.22(b) or (c), as applicable, for determining the student's date of withdrawal. In the case of a student who does not return from a summer break, the school must follow the procedures in § 668.22(b) or (c), as applicable, except that the school shall determine the student's withdrawal date no later than 30 days after the first day of the next scheduled term.

(b) The school must use the withdrawal date determined under § 668.22(b) or (c), as applicable for the purpose of reporting to the lender the date that the student has withdrawn from the school.

(c) For the purpose of a school's reporting to a lender, a student's withdrawal date is the month, day and year of the withdrawal date.

(Approved by the Office of Management and Budget under control number 1845-0020)

[60 FR 61757, Dec. 1, 1995, as amended at 64 FR 58963, 59043, Nov. 1, 1999]

**§ 682.606 [Reserved]**

**§ 682.607 Payment of a refund or a return of title IV, HEA program funds to a lender upon a student's withdrawal.**

(a) *General.* By applying for a FFEL loan, a borrower authorizes the school to pay directly to the lender that portion of a refund or return of title IV, HEA program funds from the school that is allocable to the loan upon the borrower's withdrawal. A school—

(1) Must pay that portion of the student's refund or return of title IV, HEA program funds that is allocable to a FFEL loan to—

(i) The original lender; or

(ii) A subsequent holder, if the loan has been transferred and the school knows the new holder's identity; and

(2) Must provide simultaneous written notice to the borrower if the school makes a payment of a refund or a return of title IV, HEA program funds to a lender on behalf of that student.

(b) *Allocation of a refund or returned title IV, HEA program funds.* In determining the portion of a refund or the return of title IV, HEA program funds upon a student's withdrawal for an academic period that is allocable to a FFEL loan received by the borrower for that academic period, the school must follow the procedures established in part 668 for allocating a refund or return of title IV, HEA program funds.

(c) *Timely payment.* A school must pay a refund or a return of title IV, HEA program funds that is due in accordance with the timeframe in § 668.22(j).

(Authority: 20 U.S.C. 1077, 1078, 1078-1, 1078-2, 1082, 1094)

[64 FR 59043, Nov. 1, 1999]

**§ 682.608 Termination of a school's lending eligibility.**

(a) *General.* The Secretary may terminate a school's eligibility to make loans under this part if the school reaches the 15 percent limit on loan defaults described in paragraph (b) of this section.

(b) *The 15 percent limit.* (1) The Secretary may terminate a school's eligibility to make loans if at the end of each of the 2 most recent consecutive Federal fiscal years for which data are