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Thursday  
October 28, 1999

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**Part VI**

**Department of  
Education**

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**34 CFR Part 668 et al.  
Student Assistance General Provisions;  
General Provisions for the Federal  
Perkins Loan Program, Federal Work-  
Study Program, and Federal  
Supplemental Educational Opportunity  
Grant Program; Federal Perkins Loan  
Program; Federal Work-Study Programs;  
Federal Supplemental Educational  
Opportunity Grant Program; and Federal  
Pell Grant Program; Final Rule**

## DEPARTMENT OF EDUCATION

34 CFR Parts 668, 673, 674, 675, 676, and 690

RIN 1845-AA01

**Student Assistance General Provisions; General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program; Federal Perkins Loan Program; Federal Work-Study Programs; Federal Supplemental Educational Opportunity Grant Program; and Federal Pell Grant Program**

AGENCY: Department of Education.

ACTION: Final regulations.

**SUMMARY:** These final regulations amend the regulations governing the Student Assistance General Provisions, the Campus-Based programs (Federal Perkins Loan, Federal Work-Study (FWS), and Federal Supplemental Educational Opportunity Grant (FSEOG) programs), and the Federal Pell Grant Program. These regulations incorporate changes made to the Higher Education Act of 1965, as amended (HEA), by the Higher Education Amendments of 1998 (1998 Amendments).

**DATES:** *Effective Date:* These regulations are effective July 1, 2000.

*Implementation Date:* The Secretary has determined, in accordance with section 482(c)(2)(A) of the Act, that institutions may, at their discretion, choose to implement the provisions of §§ 673.5(c), 675.26(a), and 675.26(d)(2)(iii) on or after October 28, 1999. For further information see "Implementation Date of These Regulations" under the SUPPLEMENTARY INFORMATION section of this preamble.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kathy Gause, U.S. Department of Education, 400 Maryland Avenue, SW, Regional Office Building 3, Room 3045, Washington, DC 20202-5447. Telephone: (202) 708-8242.

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**SUPPLEMENTARY INFORMATION:** These regulations implement certain provisions of the 1998 Amendments (Pub. L. 105-244), enacted October 7, 1998. On August 3, 1999, we published

a notice of proposed rulemaking (NPRM) in the **Federal Register** (64 FR 42206). In the NPRM, we proposed to amend the Student Assistance General Provisions regulations (part 668) which apply to all of the Title IV, HEA programs, the General Provisions regulations for the Campus-Based programs (part 673), and the regulations for the Federal Perkins Loan (part 674), FWS (part 675), FSEOG (part 676), and the Federal Pell Grant (part 690) programs.

The NPRM included a discussion of the proposed changes that will not be repeated here. The following list summarizes those changes and identifies the pages of the preamble to the NPRM on which the discussion can be found:

**Student Assistance General Provisions**

*Section 668.8 Eligible Program and Section 668.32 Student Eligibility—General*

The conforming changes to the Student Assistance General Provisions regulations resulting from allowing certain students enrolled in a postbaccalaureate teacher certificate or licensing program to receive a Federal Pell Grant, as proposed in §§ 668.8(h) and 668.32(c) (page 42207 of the NPRM).

*Section 668.161 Scope and Purpose*

The conforming changes to the Student Assistance General Provisions regulations resulting from changing the procedures that institutions must follow for paying students under the FWS Program, as proposed under § 668.161(a) (page 42207 of the NPRM).

**Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs**

*Section 673.5 Overaward*

The revision of the definition of the term "resources" for awarding campus-based aid resulting from the change in the definition of "estimated financial assistance" in determining a student's eligibility for subsidized loans, as proposed in § 673.5(c) (page 42207 of the NPRM).

*Sections 674.10, 675.10, and 676.10 Selection of Students*

The requirement that an institution offer less-than-full-time or independent students a reasonable portion of the FWS allocation, FSEOG allocation, or dollar amount of Federal Perkins Loans made, instead of offering five percent of those amounts, as proposed in

§§ 674.10(b), 675.10(c), and 676.10(b) (pages 42207-42208 of the NPRM).

**Federal Work-Study Programs**

*Section 675.2 Definitions*

The revision of the definition of "community services," as proposed in § 675.2(b) (page 42208 of the NPRM).

*Section 675.8 Program Participation Agreement*

The elimination of the requirement that an institution employing FWS students make equivalent non-FWS jobs reasonably available to all students at the institution who want to work, as proposed in § 675.8 (page 42208 of the NPRM).

*Section 675.16 Payments Directly to the Student's Account*

The procedures under which an institution would be allowed, upon request of a student, to make payments of FWS funds directly to the student's account at a financial institution or to credit the student's account at the educational institution, as proposed in § 675.16 (pages 42208-42209 of the NPRM).

*Section 675.18 Use of Funds*

The requirement that increases the minimum percentage of an institution's FWS allocation that must be spent on community service jobs from five to seven percent, as proposed in § 675.18(g) (page 42209 of the NPRM).

The requirement that an institution, in meeting the community service requirement, must ensure that one or more of its FWS students is employed (1) in a community service reading tutoring project as a reading tutor for children who are preschool age or are in elementary school, or (2) performing family literacy activities in a community service family literacy project, as proposed in § 675.18(g) (page 42209 of the NPRM).

The provision of a waiver of the above requirement, as provided in § 675.18(g) (pages 42209-42210 of the NPRM).

The requirement that if an institution employs FWS students as reading tutors in elementary schools, the institution, to the extent practicable, must give priority to employing students in schools that are participating in a reading reform project, as proposed in § 675.18(g) (page 42210 of the NPRM).

The clarification that an institution may pay FWS students for a reasonable amount of time spent for training for any FWS employment, as proposed in § 675.18(h) (page 42210 of the NPRM).

The provision that an institution may pay FWS students for a reasonable amount of time spent for travel that is

directly related to employment in community service activities (including tutoring in reading and family literacy activities), as proposed in § 675.18(h) (page 42210 of the NPRM).

*Section 675.20 Eligible Employers and General Conditions and Limitation on Employment*

The clarification that FWS employment may include internships, practicums, or assistantships (e.g., research or teaching assistantships), as proposed in § 675.20(d) (pages 42210–42211 of the NPRM).

*Section 675.23 Employment Provided by a Private For-Profit Organization*

The provision that if a student is employed by a private for-profit organization the work that the student performs must be academically relevant to the student's educational program only to the maximum extent possible, as proposed in § 675.23(b) (page 42211 of the NPRM).

*Section 675.26 FWS Federal Share Limitations*

The provision that the Federal share of an FWS student's compensation may exceed 75 percent, but may not exceed 90 percent, if the student is employed at a nonprofit or a public organization that cannot afford to pay the regular non-Federal share, as proposed in § 675.26(a) (page 42211 of the NPRM).

The authorization of a Federal share of 100 percent of the FWS funds awarded to students by an institution for an award year, if the student is performing literacy activities when employed in a family literacy project that provides services to families with preschool age children or children who are in elementary school, as proposed in § 675.26(d) (page 42211 of the NPRM).

**Work-Colleges Program (Subpart C)**

*Section 675.45 Allowable Costs, Federal Share, and Institutional Share*

The provision of more flexibility to Work-Colleges by allowing them to use available funds to coordinate and carry out joint projects to promote work service learning, and to conduct a comprehensive longitudinal study of academic progress and academic and career outcomes, as proposed in § 675.45(a) (page 42211 of the NPRM).

**Federal Supplemental Educational Opportunity Grant Program**

*Section 676.18 Use of funds.*

The inclusion of a new authority for an institution to carry up to ten percent of its current award year FSEOG allocation forward to spend in the next award year and to carry back up to ten

percent of its current award year allocation to spend in the prior award year, as proposed in § 676.18 (pages 42211–42212 of the NPRM).

The inclusion of a new authority for an institution to carry back any portion of its current award year FSEOG funds to make awards to students for payment periods that begin on or after May 1 of the prior award year but end prior to the start of the current award year, as proposed in § 676.18(f) (page 42212 of the NPRM).

**Federal Pell Grant Program**

*Section 690.6 Duration of Student Eligibility—Undergraduate Course of Study and Eligible Postbaccalaureate Program*

The provision that extends Federal Pell Grant eligibility to certain students enrolled in a postbaccalaureate teacher certificate or licensing program even if they have earned a bachelor's degree, as proposed in § 690.6 (pages 42212–42213 of the NPRM).

*Section 690.7 Institutional Participation*

The provision that an institution is ineligible to participate in the Federal Pell Grant Program upon losing its eligibility to participate in the FFEL or Direct Loan programs because of its default rate, as proposed in § 690.7(c) (page 42213 of the NPRM).

*Substantive Changes to the NPRM*

Except for minor editorial and technical revisions, there are no differences between the NPRM and these final regulations.

*Implementation Date of These Regulations*

Section 482(c) of the Higher Education Act of 1965, as amended (20 U.S.C. 1089(c)) requires that regulations affecting programs under Title IV of the Act be published in final form by November 1 prior to the start of the award year in which they apply. However, that section also permits the Secretary to designate any regulation as one that an entity subject to the regulation may choose to implement earlier. If the Secretary designates a regulation for early implementation, he may specify when and under what conditions the entity may implement it. Under this authority, the Secretary has designated the following regulations for early implementation:

§ 673.5(c)—Upon publication, these regulations may be implemented by institutions at their discretion. This means that when packaging campus-based programs, institutions may exclude as a resource any portion of a subsidized Stafford Loan under the

FFEL Program or Direct Subsidized Loan under the Direct Loan Program that is equal to or less than the amount of the student's Montgomery GI Bill—active duty veterans education benefits and AmeriCorps education awards or post-service benefits paid for the cost of attendance.

§ 675.26(a)—Upon publication, these regulations may be implemented by institutions at their discretion. This means that institutions may pay a Federal share of up to 90 percent for an FWS student employed at a nonprofit or a public organization that can not afford to pay the regular non-Federal share under the requirements specified by the Secretary.

§ 675.26(d)(2)(iii)—Upon publication, these regulations may be implemented by institutions at their discretion. This means that institutions may pay a Federal share of up to 100 percent for an FWS student performing family literacy activities when employed in a family literacy project that provides services to families with preschool age children or children who are in elementary school. The waiver of the institutional share requirement will no longer be limited to tutoring in a family literacy program.

**Analysis of Comments and Changes**

The regulations in this document were developed through the use of negotiated rulemaking. Section 492 of the HEA requires that, before publishing any proposed regulations to implement programs under Title IV of the Act, the Secretary obtain public involvement in the development of the proposed regulations. After obtaining advice and recommendations, the Secretary must conduct a negotiated rulemaking process to develop the proposed regulations. All proposed regulations must conform to agreements resulting from the negotiated rulemaking process unless the Secretary reopens that process or explains any departure from the agreements to the negotiated rulemaking participants.

These regulations were published in proposed form on August 3, 1999 in conformance with the consensus of the negotiated rulemaking committee. Under the committee's protocols, consensus meant that no member of Committee III dissented from the agreed-upon language. The Secretary invited comments on the proposed regulations by September 15, and several comments were received. An analysis of the comments follows.

We discuss substantive issues under the sections of the regulations to which they pertain. Generally, we do not

address technical and other minor changes—and suggested changes the law does not authorize the Secretary to make.

#### General

*Comments:* A number of commenters representing institutions of higher education and organizations submitted joint and individual comments that were supportive of our efforts to provide consistency among the Title IV, HEA programs and to allow institutions more flexibility to assist students. Several commenters stated that there are many positive aspects to these proposed regulations.

*Changes:* None.

#### Student Assistance General Provisions and the Federal Pell Grant Program

Sections 668.8 Eligible Program, 668.32 Student Eligibility—General, and 690.6 Duration of Student Eligibility—Undergraduate Course of Study and Eligible Postbaccalaureate Program

*Comments:* One commenter requested clarification on whether a student enrolled in the type of program offered at the commenter's school would qualify for a Federal Pell Grant. The commenter's institution does not award a baccalaureate degree in education. Students must choose another field of study, but may have a concentration in education. The baccalaureate degree the institution awards is for that other field of study, not for education.

The commenter stated that it is also possible for students to enter a teacher certification program after they receive their baccalaureate degrees and before they begin any graduate study.

*Discussion:* As described by the commenter, the student enrolled in the institution's baccalaureate degree program would be ineligible to receive a Federal Pell Grant under the provisions in § 690.6, but may be eligible to receive a Federal Pell Grant as an undergraduate student. However, a student enrolled in the institution's teacher certification program would be ineligible for a Federal Pell Grant award for the reasons discussed below.

The 1998 Amendments created a very limited exception to the requirement that a Federal Pell Grant recipient be an undergraduate student. Thus, to qualify for a Federal Pell Grant, a student who has a bachelor's degree must first be enrolled in an institution of higher education that does not offer a baccalaureate degree in education. Second, the student must be enrolled in a postbaccalaureate program that (a) consists of the courses required by a State to receive a professional

certification or licensing credential necessary for employment as a teacher in an elementary or secondary school in that State, and (b) does not lead to a graduate degree. Third, the student must be pursuing an initial teacher certification or licensing credential within a State. Fourth, the student must be enrolled as at least a half-time student.

Therefore, the student enrolled in the commenter's baccalaureate program does not come within the requirements contained in § 690.6 because the program in which he or she is enrolled is not a postbaccalaureate program. The student enrolled in the commenter's teacher certificate program does not meet the requirements of § 690.6, even if the courses included in the certificate program are required by the State, because the certificate program does not appear to be a postbaccalaureate program. An undergraduate program does not become a postbaccalaureate program merely because it admits students who have baccalaureate degrees.

*Changes:* None.

#### Section 668.161 Scope and Purpose

*Comments:* One organization stated that the proposed amendments to § 668.161 to indicate that an institution must follow § 675.16 for paying a student under the FWS Program instead of §§ 668.164 and 668.165 make the disbursement procedures under § 668.164 inapplicable to the FWS Program. The commenter requested clarification on whether the definition of disbursement under § 668.164(a)(1) still applies to the FWS Program.

*Discussion:* We agree with the commenter that the proposed language in § 668.161 does not make clear that the definition of disbursement in § 668.164 is still applicable to the FWS Program. This definition continues to apply to all Title IV, student financial aid programs.

*Changes:* We have revised the regulations to clarify that the definition of disbursement in § 668.164(a) will continue to apply to the FWS Program, Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs.

#### Section 673.5 Overaward

*Comments:* Several commenters, including two organizations, objected to the proposal that would change the definition of "resources" for the campus-based programs.

*Discussion:* The proposed regulations would modify the overaward provisions in § 673.5 of the regulations for the

campus-based programs. They would apply in cases where students receive both a subsidized loan and veterans education benefits under Title 38, Chapter 30 (Montgomery GI Bill—active duty) and/or national service education awards or post-service benefits under Title I of the National and Community Service Act of 1990 (AmeriCorps).

The statute requires that these benefits must be excluded as estimated financial assistance in determining a student's eligibility for a subsidized Stafford Loan or Direct Subsidized Loan. However, the statute requires that these same benefits must be considered as a resource for the campus-based programs, as well as estimated financial assistance for unsubsidized loans. The proposed regulations would allow an institution, in packaging campus-based aid, to exclude as a resource any portion of a subsidized Stafford Loan or Direct Subsidized Loan that is equal to or less than the amount of the student's Montgomery GI Bill—active duty veterans education benefits and/or AmeriCorps education awards or post-service benefits paid for the cost of attendance.

*Changes:* None.

*Comments:* Some commenters stated that the treatment of the aforementioned benefits in two different ways in determining a student's eligibility is confusing and an administrative burden for institutions. They stated that it is extremely difficult for institutions to package a student when the student has both subsidized loans and campus-based aid. One commenter stated that it would be difficult to explain to students why in some cases their benefits are treated as a resource, but not in other cases.

Most of the commenters stated that the proposal would require schools that use computerized packaging systems to reprogram their financial aid software to determine when to include or exclude all or a part of these benefits. Commenters also believed that this requirement would result in institutions being forced to implement a verification system to determine the type of benefits the student is receiving while also determining, on a case-by-case basis, the type and amount of benefits that are to be considered as estimated financial assistance. They also stated that the issue is further complicated by the fact that a student's financial aid package does not always remain the same after making initial awards. Changes in resources require recalculating the student's eligibility for Federal assistance. Commenters also stated that any combination of Montgomery GI Bill benefits, AmeriCorps benefits,

subsidized Stafford loans and campus-based aid will involve manual intervention to correct an overaward situation.

One of the organizations that objected to the proposal expressed concern about errors institutions may make in interpreting this provision and calculating student awards, and therefore requests that institutions be held harmless and not assessed any liabilities until the Department can provide guidance on correct implementation.

Some commenters recommended that we work with Congress to treat Montgomery GI Bill benefits and AmeriCorps education awards or post-service benefits identically for all student aid programs.

*Discussion:* We understand the concerns that the commenters have regarding handling students that have these benefits along with other types of Title IV aid. However, this provision that treats veterans and AmeriCorps benefits different for the Title IV programs is the result of the change in section 428(a)(2)(C) of the HEA that requires that these benefits must be excluded as "estimated financial assistance" for purposes of subsidized loans.

*Changes:* None.

*Comments:* One commenter expressed his belief that the order in which the student received the financial aid awards determines if the student is overawarded and would mean that students with similar need and aid may not be treated the same.

*Discussion:* Under current campus-based regulations, if a student has both a subsidized loan and campus-based aid, the most stringent requirement regarding resources becomes operative because the student's eligibility for campus-based funds is reduced by the amount of subsidized loans as well as any Montgomery GI Bill—active duty benefits and AmeriCorps funds, or both, paid for the cost of attendance. Thus, students receiving subsidized loans because of the new exclusion of these benefits may have their eligibility for campus-based aid reduced. The negotiated rulemaking committee concluded that the proposed change in the definition of "resources" for the campus-based programs is the best solution to allow students to have the full advantage of this statutory exclusion of benefits for subsidized loans without losing campus-based eligibility.

We remind the commenters that the use of the proposed regulations that would change the definition of "resources" for the campus-based

programs in cases where a student receives both a subsidized loan and Montgomery GI Bill—active duty veterans education benefits and/or an AmeriCorps education award is an option provided to an institution and not a requirement. Unlike the requirements mandated by section 428(a)(2)(C) of the HEA for subsidized loans, where the definition of "estimated financial assistance" requires the exclusion of these benefits, this proposal provides the institution with the flexibility to address different packaging issues if the financial aid administrator determines that it is necessary to rectify a particular situation on a case-by-case basis.

*Changes:* None.

*Comment:* One commenter also noted that it is frequently difficult to identify the specific type of veterans benefits that individual veterans may be receiving. This commenter encourages us to work closely with the Veterans Administration to develop computer database interfaces that will permit this information to be reported on the Institutional Student Information Records, or to set up a web site similar to the National Student Loan Data System that will permit access to this information. Until this can be accomplished, the commenter encourages us to seek other means of enabling participating institutions to easily identify those veterans receiving Montgomery GI Bill education benefits.

*Discussion:* Regardless of our campus-based regulations, an institution, under the statute, must be able to identify the Montgomery GI Bill—active duty benefits and the AmeriCorps funds for students applying for subsidized loans. We thank the commenter for the suggestion on solutions for identifying veterans benefits. We will explore possible systems solutions to address this comment.

*Changes:* None.

*Comments:* One organization in expressing its support for this proposed regulation, noted the confusion caused by the proliferation of names by which Direct and FFEL loans are known. The commenter suggested that we use the name "Direct Subsidized Loan" when referring to the Federal Direct Stafford/Ford Loan.

*Discussion:* We agree with the commenter that the names for the Direct and FFEL loans can be confusing, and that "Direct Subsidized Loan" is the simplest name to understand when referring to a Federal Direct Stafford/Ford Loan.

*Changes:* For clarity, we have added the words "Direct Subsidized Loan" in

parenthesis in § 673.5(c)(4) after "Federal Direct Stafford/Ford Loan."

*Comments:* Another commenter also expressed concern with the lack of clarification on a required implementation date, which the commenter believes could possibly cause institutional liability. One organization also sought clarification on when institutions could begin using the proposed new definition of "resources" for the campus-based programs. The organization further recommended that we authorize optional early implementation by institutions under the Master Calendar.

*Discussion:* In response, the Secretary authorizes optional early implementation by institutions of this provision under the Master Calendar. Institutions may begin using this new definition for "resources" effective with the publication date of these regulations. This authority is discussed in the DATES and SUPPLEMENTARY INFORMATION sections of this preamble.

*Changes:* None.

#### Federal Work-Study Programs

##### Section 675.2 Definitions

*Comments:* One commenter stated that on-campus facilities should count as community service employers even if the service is provided only for students, faculty, staff, and their families, because these individuals pay taxes and also are part of the "local community."

*Discussion:* The statute states that the definition of "community services" now includes child care services provided on campus that are "open and accessible to the community." A university or college in and of itself is not considered the community for this purpose. Therefore, if the service is provided only to students, faculty, staff, and their families, an FWS job does not meet the definition of "community service." As stated in the NPRM (page 42208), these regulations are not proposing to set a numerical count or percentage requirement for institutions to demonstrate public use of on-campus services.

*Changes:* None.

##### Section 675.16 Payments Directly to the Student's Account

*Comments:* One organization commented that the proposed regulations governing the application of a student's FWS earnings to his or her institutional account are far too prescriptive. The commenter believes the procedure will discourage institutions from offering students this option, and that implementation will

create a significant cost and administrative burden for institutions. The same commenter believes the current cash management regulations (Subpart K) provides sufficient protection for the student and recommends that these proposed regulations be rescinded and institutions be referred to the existing cash management regulations.

*Discussion:* Prior to the 1998 Amendments, the FWS regulations prohibited an institution from directly transferring the Federal share of FWS earnings to a student's account at the institution. The 1998 Amendments broadened the institution's authority concerning students who want their FWS earnings credited to their accounts at the institution to cover institutional charges. The commenter is correct that the *Subpart K—Cash Management* regulations already regulated disbursement procedures for all other Title IV, HEA program funds. We do not agree with the commenter that the proposed regulations in § 675.16 will discourage institutions from offering students this option, and that implementation will create a significant cost and administrative burden for institutions. We believe that it was important to make a distinction between FWS Program funds and other Title IV program funds. In the FWS Program students hold jobs and their compensation is earned and governed by the same applicable Federal, State, or local laws as any other type of earnings from employment. We also believe that it will be less confusing to have the FWS disbursement procedures in the FWS Program regulations.

*Changes:* None.

*Comments:* Another commenter noted that in most cases students receiving FWS funds are notified of the amount of the award on the financial aid award letter sent to them by the institution. This commenter asks us to clarify that an award letter sent to the student by the institution meets the requirement for notifying the student of the amount of FWS compensation he or she is authorized to earn.

*Discussion:* We are aware that providing a student with a notice of the amount of funds he or she is eligible to earn, and how and when the FWS funds will be paid is standard institutional practice and required by regulations. The award letter, as used by many institutions, meets the requirement for notification to a student of the amount of FWS compensation he or she is authorized to earn. It was not our intent to confuse the public in § 675.16 by implying that an additional notice is required. Because FWS funds are earned

compensation, we concluded that the requirement for the notice should be reiterated in the new provisions in § 675.16.

*Changes:* None.

*Comments:* Another organization stated that the proposed regulations in § 675.16 are not clear about what would be required if the student rescinds an authorization to hold excess FWS earnings. The commenter observed that § 675.16(a)(4) allows a student to authorize an institution to credit FWS funds to the student's institutional account and also allows a student to authorize an institution to hold excess FWS funds (credit balances). The commenter noted that § 675.16(a)(7) generally requires that a credit balance consisting of FWS funds be paid out to the student within 14 days, presumably if the student authorizes crediting the account but does not authorize holding excess funds. Section 675.16(a)(6)(i) states that if any authorization allowed under § 675.16(a)(4) is modified, the modification takes effect on the date received. The commenter asked whether the institution has up to 14 days to process the FWS credit balance after a student rescinds his or her authorization that allowed an institution to hold excess FWS funds.

*Discussion:* We agree with the commenter that the proposed language in the regulations in § 675.16 is not clear about what would be required if the student rescinds an authorization to hold excess FWS earnings. Our intent is that the excess FWS funds must be paid by the institution to the student as soon as possible, but not later than 14 days after the student rescinds an authorization to hold excess funds.

*Changes:* We have revised the regulations and added a new § 675.16(a)(9) to reflect that if a student cancels the written authorization to hold excess FWS funds, the institution must pay those funds to the student as soon as possible but no later than 14 days after the institution receives that cancellation notice.

#### Sections 675.18 Use of Funds and 675.26 FWS Federal Share Limitations

*New reading tutoring and family literacy project requirement (§ 675.18(g)(1) and waiver of FWS institutional-share requirement for literacy activities (§ 675.26(d)(2)).*

*Comments:* A commenter representing an organization requested clarification on the wording in § 675.18(g)(1)(ii) that refers to a family literacy project that employs students "in family literacy activities." The commenter stated that the statute simply requires students to be employed in a family literacy project

and is silent on whether students must be engaged in family literacy activities. The commenter stated that the statute authorizes a 100 percent Federal share for FWS students employed in a family literacy project, and the proposed language in § 675.26(d)(2)(iii) reflects the statute in that it only requires the student to be employed in a family literacy project, as long as the project provides certain services.

*Discussion:* For purposes of employment in a family literacy project, both of the following new statutory provisions require that the student be performing family literacy activities.

Amended section 443(b)(2) of the HEA requires, that beginning with the 2000–2001 award year, an institution must ensure that in meeting the FWS community service requirement at least one or more of its FWS students is employed (1) in a reading tutoring project as a reading tutor for children who are preschool age or are in elementary school, or (2) performing family literacy activities in a family literacy project.

Amended section 443(d)(3) of the HEA provides that, beginning with the 2000–2001 award year, an institution may pay a Federal share of compensation that exceeds 75 percent to students employed (1) in a reading tutoring project as a reading tutor for children who are preschool age or are in elementary school, or (2) performing family literacy activities in a family literacy project.

We agree that the different proposed language used in § 675.18(g)(2)(ii) and § 675.26(d)(2)(iii) is confusing. The HEA is specific on the reference to family literacy activities. The new FWS community service requirement in section 443(b) of the HEA does require that the family literacy project employ one or more FWS students in family literacy activities. Further, the new authority in section 443(d) of the HEA to pay a Federal share of up to 100 percent of the compensation earned by a student employed in a family literacy project also requires the student to be performing family literacy activities.

In accordance with the amended statute, these regulations amend § 675.18(g)(1)(ii) to require that, beginning July 1, 2000, an institution must ensure that one or more of its FWS students is employed (1) in a reading tutoring project as a reading tutor for children who are preschool age or are in elementary school, or (2) performing family literacy activities in a family literacy project.

We have changed § 675.26(d)(2)(iii) of these regulations to clarify that the waiver of the institutional-share

requirement is for an FWS student performing family literacy activities when employed in a family literacy project that provides services to families with preschool age children or children who are in elementary school.

*Changes:* We have revised the language in § 675.26(d)(2)(iii) to make this language consistent with the family literacy activities language used in § 675.18(g)(1)(ii). This change also follows the language provided in the statute that the FWS student must perform family literacy activities when employed in a family literacy project.

*Comments:* The same commenter also requested clarification of the effective date on which institutions may pay a 100 percent Federal share for family literacy employment in addition to tutoring.

*Discussion:* The Secretary is authorizing optional early implementation of the new institutional-share waiver for an FWS student performing family literacy activities when employed in a family literacy project. Effective with the publication date of these regulations institutions may begin to pay a Federal share of compensation that exceeds 75 percent to a student performing family literacy activities that are not limited just to tutoring. This authority is discussed in the **DATES** and the **SUPPLEMENTARY INFORMATION** sections of the preamble.

*Changes:* None.

*Comments:* The commenter further requested clarification on whether indirect services in a family literacy project would qualify the employment: (1) as community service; (2) as satisfying the separate family literacy project requirement; and/or (3) as eligible for the 100 percent Federal share?

*Discussion:* We are not defining "family literacy activities" for purposes of the new community service requirement in § 675.18(g)(1)(ii) or the new waiver of the institutional-share requirement in § 675.26(d)(2)(iii). We are providing reasonable flexibility to institutions to determine the job description and duties for an FWS student performing family literacy activities. Under the revised statute and regulations, the jobs in family literacy projects are not limited to just students employed as tutors. For example, the family literacy activities may include an FWS student training tutors, performing administrative tasks such as coordinating the tutors, or working as an instructional aide who prepares the materials for the project. However, it would not be reasonable to include

janitorial or building repair jobs for the project as family literacy activities.

Under § 675.26(d)(2)(iii), to qualify for the new FWS waiver of the institutional-share, the family literacy activities job does not have to be community service. For example, the family literacy activities could be open to only institutional staff and their families. However, under § 675.18(g)(1)(ii), an FWS student's job as a reading tutor in a required reading tutoring project or job performing family literacy activities in a required family literacy project must be considered community service.

The definition of "community services" in § 675.2 does not require that the service provided by the FWS student be "direct" to be considered community service. The services must be open and accessible to the community. A service is considered open to the community if the service is publicized to the community and the general public uses the service. A university or college in and of itself is not considered the community for this purpose.

In determining whether the FWS student's employment provides community service, the institution must always consider whether the service provided by the student primarily benefits the community as opposed to the agency or institution. For example, if an FWS student was hired to take care of the grounds for the administrative offices of the private nonprofit agency that provides the family literacy project, that job would not be community service. It is important to note that this job would also not be considered to be performing family literacy activities.

*Changes:* None.

**Waiver—Employment of Students as Reading Tutors or in a Family Literacy Project (§ 675.18(g)(2))**

*Comments:* As stated in the discussion for the previous comments, beginning July 1, 2000, an institution must ensure that one or more of its FWS students is employed (1) in a reading tutoring project as a reading tutor for children who are preschool age or are in elementary school, or (2) performing family literacy activities in a family literacy project. Section 443(b)(2) of the HEA grants the Secretary waiver authority with respect to both of these requirements if the Secretary determines that enforcing them would cause hardship for students at an institution.

Several institutions commented that their academic programs are solely focused on health professions programs with a majority of either graduate or first-professional degree students

attending their institutions. They stated that they are "single-purpose institutions" providing degrees in health professions (e.g., nursing, occupational therapy, medical technicians, biological sciences, dentistry, medicine, pharmacy, dental hygiene, physical therapy, clinical nutrition, medical technology). The institutions have no problem meeting and exceeding the community service percentage requirement for FWS. However, students in these programs actively seek community service activities that involve health care (e.g., the homeless medical clinic). The graduate and professional programs are rigorous and time-consuming, and the nature and demands of their academic programs do not support their employment in area elementary and secondary schools as reading tutors. Students are typically in classes from 8 a.m. to 5 p.m. One of these commenters stated that it is common for students to be available to work FWS jobs only on evenings or weekends, and if literacy tutor positions are not available in the time frames that students can work because of academic requirements, penalties should not be assessed.

Another of these commenters stated that the proposed reading tutoring/family literacy placement would strain their resources to create, monitor and staff the necessary support mechanisms to implement a component that students, faculty and staff are currently not geared to provide (as a health professions institution). Several of the institutions that focus primarily on health professions requested that the final regulations provide clear guidance to institutions on what would be viewed as a hardship and steps the institution must take to qualify for a waiver. One of these commenters requested that we consider granting an automatic waiver of the reading tutoring/family literacy placement requirement for "single-purpose institutions."

*Discussion:* We do not foresee many instances in which a waiver of the reading tutoring and family literacy activities requirement would be granted. However, we are sensitive to the commenters' concerns and will evaluate situations involving institutions that specialize in health professions or other single areas of study, along with other waiver requests, if they are submitted during the waiver process. To allow flexibility to consider all factors that are valid reasons for a waiver, we are not specifying the circumstances that would receive a waiver in these final regulations.

In the Spring of 2000, the Department plans to issue a Dear Partner Letter

regarding the waiver process that will provide procedures and time frames for institutions to request waivers of the community service and/or the reading tutor/family literacy activities requirements for the 2000–2001 award year. We intend to notify institutions of our decision on their waiver requests prior to the start of the 2000–2001 award year so as not to cause any disruptions to institutions' award processes. Institutions should keep in mind that a waiver will be granted if they provide evidence that enforcing the requirement would cause a hardship for students at the institution. The fact that it may be difficult for the institution to comply with this provision is not in and of itself a basis for granting a waiver.

*Changes:* None.

*Comments:* One commenter expressed opposition to the new reading tutoring and family literacy project requirement by stating that it seems that schools are being forced more and more to implement "social policy" as a consequence of accessing Title IV funds. The commenter stated that the commenter trains career oriented and vocationally focused students who are not interested in these types of projects. Therefore, the commenter suggested that the entire reading tutoring and family literacy project requirement be waived and that we focus more on simplifying the HEA rather than complicating the regulations with social initiatives.

*Discussion:* Reading is a fundamental skill for learning and many American school children have trouble learning how to read. The FWS students not only help children read better by giving them extra learning time, they also build confidence and boost motivation. Research shows that children whose parents work with them on literacy skills during early childhood have a better chance of reading well and independently.

Student achievement in reading and mathematics in the United States is below the international average. There is a growing interest among many professionals in technical, mathematical and scientific fields to share their enthusiasm and knowledge about mathematics with school children. College students, particularly those with an affinity for mathematics and science, seek opportunities to mesh their interests with their commitment to community service. Students who need help in mastering the fundamentals of reading and mathematics in elementary and middle school can benefit from extra help, personal attention, and additional learning time.

We believe that participation in these community service activities can help to

serve the needs of the community and give FWS students a rewarding and enriching experience. College students participating as tutors of reading and math may decide to pursue teaching as a career, based on successful tutoring experiences. This investment in our youth is an investment in this country's future. We believe that the efforts associated with regulations for FWS students to tutor children in reading and math, and work in family literacy activities, are justified by the benefits of preparing children to compete in the global economy and ensuring our Nation's economic growth.

*Changes:* None.

**Payment for Time Spent in Training and Travel (§ 675.18(h))**

*Comments:* One commenter expressed concern about the ability of time cards to demonstrate travel time when the student is employed in community service. This commenter suggested that we leave this regulation as flexible as possible by allowing a simple statement from the student attached to an already existing time card that only lists hours worked. Another commenter also questioned the requirement that travel time be designated separately on timesheet records, and suggested that the supervisor's signature certifying the accuracy of the timesheet record should be adequate documentation.

*Discussion:* The Department's policy does require that the time spent for travel that is directly related to employment in community service activities be reported on the student's FWS time record as the hours worked are also reported. We recommend that institutions use a time record that shows a separation for the time spent in travel from hours worked. This enables those hours to be monitored by a supervisor to ensure that the hours are reasonable and maintains the integrity of the FWS Program.

*Changes:* None.

*Comments:* A commenter objected to the differential treatment of FWS earnings for training and travel. The commenter believes that the differential treatment of earnings for training and travel time for standard off-campus FWS positions and those designated as community service are inequitable and administratively cumbersome. That commenter recommends that the treatment of earnings for travel and training be consistent across all off-campus FWS employment positions.

*Discussion:* The proposed regulations do not represent a change in our policy to allow FWS students to be paid wages during a training period conducted for a reasonable length of time for any FWS

employment. The examples of math or reading tutors as positions that may require longer training periods were not used in the preamble to the NPRM (page 42210) to imply that an FWS student could not be paid for a training period in other types of FWS jobs. This policy applies whether the student is employed in community service activities or not.

With regard to payment for travel time, the HEA at section 443(b)(2)(A) clearly provides that beginning with the 1999–2000 award year, institutions will be allowed to pay students for a reasonable amount of time spent for travel that is directly related to employment in community service activities. We do not have authority to allow institutions to pay for travel time for any other types of FWS jobs.

*Changes:* None.

### **Goals 2000: Educate America Act**

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

These regulations address the National Education Goals that (1) all children will start school ready to learn and that student achievement will be enhanced; (2) call for increasing the rate at which students graduate from high school and pursue high quality postsecondary education and for supporting life-long learning; (3) every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship; and (4) the Nation's teaching force will have access to programs for the continued improvement of their professional skills and the opportunity to acquire the knowledge and skills needed to instruct and prepare all American students for the next century. The regulations in § 675.18(g) further the objectives of these Goals by requiring FWS student participation in reading tutoring and in family literacy projects where the family is recognized as an institution for education and learning and the parent is recognized as their children's first teachers. The objectives of the Goals are also addressed by extending eligibility for Federal Pell Grants to those students who are pursuing a teacher certification or licensing credential through a State



approved non-degree postbaccalaureate program.

#### Executive Order 12866

We have reviewed these final regulations in accordance with Executive Order 12866. Under the terms of the order we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the final regulations are those resulting from statutory requirements and those we have determined to be necessary for administering these programs effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of these final regulations, we have determined that the benefits of the regulations justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

We discussed the potential costs and benefits of these final regulations in the preamble to the NPRM on page 42213.

#### Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 does not require you to respond to a collection of information unless it displays a valid OMB control number. We display the valid OMB control numbers assigned to the collections of information in these final regulations at the end of the affected sections of the regulations.

#### Intergovernmental Review

The Federal Supplemental Educational Opportunity Grant program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, we intend this document to provide early notification of the Department's specific plans and actions for this program.

The Federal Perkins Loan, Federal Work-Study, and Federal Pell Grant programs are not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79.

#### Assessment of Educational Impact

In the NPRM we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and on our review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

#### Electronic Access to This Document

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To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at the first of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO) toll free, at 1-888-293-6498; or in the Washington, D.C., area at (202) 512-1530.

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(Catalog of Federal Domestic Assistance Numbers: 84.033 Federal Work-Study Program; 84.037 Federal Perkins Loan Program; 84.007 Federal Supplemental Educational Opportunity Grant Program; and 84.063 Federal Pell Grant Program)

#### List of Subjects

##### 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid.

##### 34 CFR Part 673, 674, 675, and 676

Employment, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid.

##### 34 CFR Part 690

Grant programs—education, Reporting and recordkeeping requirements, Student aid.

Dated: October 20, 1999.

**Richard W. Riley,**  
 Secretary of Education.

For the reasons stated in the preamble, the Secretary amends title 34 of the Code of Federal Regulations by amending Parts 668, 673, 674, 675, 676, and 690 as follows:

#### PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for Part 668 continues to read as follows:

**Authority:** 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099c, and 1141, unless otherwise noted.

2. Section 668.8 is amended by revising paragraph (h) to read as follows:

##### § 668.8 Eligible program.

\* \* \* \* \*

(h) *Eligibility for Federal Pell Grant and FSEOG programs.* In addition to satisfying other relevant provisions of this section—

(1) An educational program qualifies as an eligible program for purposes of the Federal Pell Grant Program only if the educational program is an undergraduate program or a postbaccalaureate teacher certificate or licensing program as described in 34 CFR 690.6(c); and

(2) An educational program qualifies as an eligible program for purposes of the FSEOG Program only if the educational program is an undergraduate program.

\* \* \* \* \*

3. Section 668.32 is amended by revising paragraph (c) to read as follows:

##### § 668.32 Student eligibility—general.

\* \* \* \* \*

(c)(1) For purposes of the FSEOG Program, does not have a baccalaureate or first professional degree;

(2) For purposes of the Federal Pell Grant Program—

(i)(A) Does not have a baccalaureate or first professional degree; or

(B) Is enrolled in a postbaccalaureate teacher certificate or licensing program as described in 34 CFR 690.6(c); and

(ii) Is not incarcerated in a Federal or State penal institution; and

(3) For purposes of the Federal Perkins Loan, FFEL, and Direct Loan programs, is not incarcerated;

\* \* \* \* \*

4. Section 668.161 is amended by revising paragraph (a)(4) to read as follows:

##### § 668.161 Scope and purpose.

(a) \* \* \*

(4) *FWS Program.* An institution must follow the disbursement procedures in 34 CFR 675.16 for paying a student his or her wages under the FWS Program instead of the disbursement procedures in §§ 668.164(b) through (g) and 668.165.

\* \* \* \* \*

**PART 673—GENERAL PROVISIONS FOR THE FEDERAL PERKINS LOAN PROGRAM, FEDERAL WORK-STUDY PROGRAM, AND FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM**

5. The authority citation for part 673 continues to read as follows:

**Authority:** 20 U.S.C 421–429, 1070b-1070b-3, and 1087aa-1087ii; 42 U.S.C. 2751–2756b, unless otherwise noted.

6. Section 673.5 is amended by revising paragraph (c)(1) introductory text and paragraph (c)(1)(ix); by redesignating paragraphs (c)(1)(x) and (c)(1)(xi) as paragraphs (c)(1)(xi) and (c)(1)(xii), respectively; by adding new paragraphs (c)(1)(x) and (c)(4); and by revising the OMB control number following the section to read as follows:

**§ 673.5 Overaward.**

\* \* \* \* \*

(c) *Resources.* (1) Except as provided in paragraphs (c)(2), (c)(3), and (c)(4) of this section, the Secretary considers that “resources” include, but are not limited to, any—

\* \* \* \* \*

(ix) Veterans educational benefits paid under Chapters 30, 31, 32, and 35 of title 38 of the United States Code;

(x) National service education awards or post-service benefits paid for the cost of attendance under title I of the National and Community Service Act of 1990 (AmeriCorps);

\* \* \* \* \*

(4) The institution may exclude as a resource any portion of a Federal Direct Stafford/Ford Loan (Direct Subsidized Loan) and subsidized Federal Stafford Loan that is equal to or less than the amount of a student’s veterans education benefits paid under Chapter 30 of title 38 of the United States Code (Montgomery GI Bill) and national service education awards or post service benefits paid for the cost of attendance under title I of the National and Community Service Act of 1990 (AmeriCorps).

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 1845–0019)

**PART 674—FEDERAL PERKINS LOAN PROGRAM**

7. The authority citation for part 674 continues to read as follows:

**Authority:** 20 U.S.C. 1087aa–1087ii and 20 U.S.C. 421–429, unless otherwise noted.

8. Section 674.10 is amended by revising paragraph (b) to read as follows:

**§ 674.10 Selection of students for loans.**

\* \* \* \* \*

(b) If an institution’s allocation of Federal Capital Contribution is directly or indirectly based in part on the financial need demonstrated by students attending the institution as less-than-full-time or independent students, a reasonable portion of the dollar amount of loans made under this part must be offered to those students.

\* \* \* \* \*

**PART 675—FEDERAL WORK-STUDY PROGRAMS**

9. The authority citation for part 675 is revised to read as follows:

**Authority:** 42 U.S.C. 2751–2756b, unless otherwise noted.

10. In § 675.2 paragraph (b) is amended by revising paragraphs (1) and (3) of the definition of “community services” to read as follows:

**§ 675.2 Definitions.**

\* \* \* \* \*

(b) \* \* \*

*Community services* \* \* \*

(1) Such fields as health care, child care (including child care services provided on campus that are open and accessible to the community), literacy training, education (including tutorial services), welfare, social services, transportation, housing and neighborhood improvement, public safety, crime prevention and control, recreation, rural development, and community improvement;

\* \* \* \* \*

(3) Support services to students with disabilities, including students with disabilities who are enrolled at the institution; and

\* \* \* \* \*

**§ 675.8 [Amended]**

11. Section 675.8 is amended by removing paragraph (d), and redesignating paragraphs (e), (f), and (g) as paragraphs (d), (e), and (f), respectively.

12. Section 675.10 is amended by revising paragraph (c), and by revising the OMB control number following the section to read as follows:

**§ 675.10 Selection of students for FWS employment.**

\* \* \* \* \*

(c) *Part-time and independent students.* If an institution’s allocation of FWS funds is directly or indirectly based in part on the financial need demonstrated by students attending the institution as less-than-full-time or independent students, a reasonable portion of the allocation must be offered to those students.

(Approved by the Office of Management and Budget under control number 1845–0019)

13. Section 675.16 is amended to read as follows by:

(a.) Redesignating paragraphs (a)(2), (a)(3), and (a)(4), as paragraphs (a)(10), (a)(11), and (a)(12), respectively;

(b.) Revising paragraph (a)(1) and adding new paragraphs (a)(2) through (a)(9);

(c.) In newly redesignated paragraph (a)(11), removing “wages are” and adding, in its place, “compensation is”;

(d.) In newly redesignated paragraph (a)(12), removing “wages” and adding, in its place, “compensation”;

(e.) Revising paragraph (b)(1);

(f.) In paragraphs (b)(2), (b)(3), and (c), removing “shall” and adding, in its place, “must”; and

(g.) Revising the OMB control number following the section.

**§ 675.16 Payments to students.**

(a)(1) An institution must pay a student FWS compensation at least once a month.

(2) Before an institution makes an initial disbursement of FWS compensation to a student for an award period, the institution must notify the student of the amount of funds the student is authorized to earn, and how and when the FWS compensation will be paid.

(3) An institution must pay FWS compensation to a student by—

(i) Check or similar instrument that the student can cash on his or her own endorsement;

(ii) Initiating an electronic funds transfer (EFT) to a bank account designated by the student after obtaining the authorization described in paragraph (a)(4)(i) of this section;

(iii) Crediting the student’s account at the institution after obtaining the authorization described in paragraph (a)(4)(i) of this section. The institution may only credit the student’s account at the institution to satisfy current award year charges for—

(A) Tuition and fees;

(B) Board, if the student contracts with the institution for board;

(C) Room, if the student contracts with the institution for room; and

(D) Other institutionally provided educationally related goods and services; or

(iv) Crediting the student’s account at the institution to satisfy minor prior award year authorized charges if these charges are less than \$100 or if the payment of these charges does not, and will not, prevent the student from paying his or her current educational costs after obtaining the authorization described in paragraph (a)(4)(i) of this section.

(4)(i) Except for the noncash contributions allowed under paragraphs (b)(2) and (b)(3) of this section, an institution must obtain a separate written authorization from the student if the student is paid FWS compensation by—

(A) Crediting the student's account at the institution; or (B) Initiating an EFT to a bank account designated by the student.

(ii) If an institution obtains a written authorization from the student, the institution may hold excess FWS funds under paragraph (a)(8) of this section.

(iii) The institution must obtain and use the written authorization in accordance with the requirements of paragraphs (a)(5) and (a)(6) of this section.

(5) In obtaining the student's written authorization described in paragraph (a)(4) of this section, an institution—

(i) May not require or coerce the student to provide that authorization;

(ii) Must allow the student to cancel or modify that authorization at any time; and

(iii) Must clearly explain to the student how it will carry out that activity.

(6)(i) If a student modifies the written authorization described in paragraph (a)(4) of this section, the modification takes effect on the date the institution receives the modification notice.

(ii) If a student cancels the written authorization described in paragraph (a)(4)(i)(A) of this section, the institution may use the FWS compensation to pay only those authorized charges incurred by the student before the institution received the notice.

(7) If an institution pays a student FWS compensation by crediting the student's account, and the result is a credit balance, the institution must pay the credit balance directly to the student as soon as possible but no later than 14 days after the balance occurred on the account.

(8) Except if prohibited by the Secretary under the reimbursement payment method, an institution may hold, on behalf of the student, FWS funds that would otherwise be paid directly to the student under paragraph (a)(7) of this section, if the institution obtains the authorization described in paragraph (a)(4)(ii) of this section. If an institution holds excess FWS funds, the institution must—

(i) Identify the amount of FWS funds the institution holds for each student in a subsidiary ledger account designated for that purpose;

(ii) Maintain, at all times, cash in its bank account in an amount at least

equal to the amount of FWS funds the institution holds for the student; and

(iii) Pay any remaining balance by the end of the institution's final FWS payroll period for an award period.

(9) If a student cancels the written authorization as described in paragraph (a)(4)(ii) of this section to hold excess FWS funds, the institution must pay those funds directly to the student as soon as possible but no later than 14 days after the institution receives that cancellation notice.

\* \* \* \* \*

(b)(1) Except for the noncash contributions allowed under paragraph (b)(2) or (b)(3) of this section, an institution must pay the student its share of his or her FWS compensation at the same time it pays the Federal share.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 1845-0019)

14. Section 675.18 is amended as follows by:

(A) Revising paragraph (a)(2);

(B) In paragraph (f), removing, "May 15" and adding, in its place, "May 1";

(C) Revising paragraphs (g)(1) and (g)(2); and adding new paragraphs (g)(3) and (h).

#### § 675.18 Use of funds.

(a) \* \* \*

(2) Paying administrative expenses as provided for in 34 CFR 673.7;

\* \* \* \* \*

(g) *Community service.* (1) For the 2000-2001 award year and subsequent award years, an institution must use at least seven percent of the sum of its initial and supplemental FWS allocations for an award year to compensate students employed in community service activities. In meeting this community service requirement, an institution must include at least one—

(i) Reading tutoring project that employs one or more FWS students as reading tutors for children who are preschool age or are in elementary school; or

(ii) Family literacy project that employs one or more FWS students in family literacy activities.

(2) The Secretary may waive the requirements in paragraph (g)(1) of this section if the Secretary determines that an institution has demonstrated that enforcing the requirements in paragraph (g)(1) of this section would cause a hardship for students at the institution.

(3) To the extent practicable, in providing reading tutors for children under paragraph (g)(1)(i), an institution must—

(i) Give priority to the employment of students to tutor in reading in schools

that are participating in a reading reform project that—

(A) Is designed to train teachers how to teach reading on the basis of scientifically-based research on reading; and

(B) Is funded under the Elementary and Secondary Education Act of 1965; and

(ii) Ensure that any student who is employed in a school participating in a reading reform project described in paragraph (g)(3)(i) of this section receives training from the employing school in the instructional practices used by the school.

(h) *Payment for time spent in training and travel.* (1) For any award year, an institution may pay students for a reasonable amount of time spent for training that is directly related to FWS employment.

(2) Beginning with the 1999-2000 award year, an institution may pay students for a reasonable amount of time spent for travel that is directly related to employment in community service activities (including tutoring in reading and family literacy activities).

15. Section 675.20 is amended by adding a new paragraph (d), and by revising the OMB control number following the section to read as follows:

#### § 675.20 Eligible employers and general conditions and limitation on employment.

\* \* \* \* \*

(d) *Academic credit and work-study.*

(1) A student may be employed under the FWS program and also receive academic credit for the work performed. Those jobs include, but are not limited to, work performed when the student is—

(i) Enrolled in an internship;

(ii) Enrolled in a practicum; or

(iii) Employed in a research, teaching, or other assistantship.

(2) A student employed in an FWS job and receiving academic credit for that job may not be—

(i) Paid less than he or she would be if no academic credit were received;

(ii) Paid for receiving instruction in a classroom, laboratory, or other academic setting; and

(iii) Paid unless the employer would normally pay the person for the same position.

(Approved by the Office of Management and Budget under control number 1845-0019)

16. Section 675.23 is amended by revising paragraph (b)(1) to read as follows:

#### § 675.23 Employment provided by a private for-profit organization.

\* \* \* \* \*

(b) \* \* \*

(1) The work that the student performs must be academically relevant to the student's educational program, to the maximum extent practicable; and

\* \* \* \* \*

17. Section 675.26 is amended by revising paragraph (a)(1), by redesignating paragraphs (a)(2) and (a)(3) as paragraphs (a)(3) and (a)(4), by adding a new paragraph (a)(2), and by revising paragraph (d)(2)(iii) to read as follows:

**§ 675.26 FWS Federal share limitations.**

(a)(1) The Federal share of FWS compensation paid to a student employed other than by a private for-profit organization, as described in § 675.23, may not exceed 75 percent unless the Secretary approves a higher share under paragraph (a)(2) or (d) of this section.

(2) The Federal share of the compensation paid to a student may exceed 75 percent, but may not exceed 90 percent, if—

(i) The student is employed at a private nonprofit organization or a Federal, State, or local public agency that—

(A) Is not a part of, and is not owned, operated, or controlled by, or under common ownership, operation, or control with, the institution;

(B) Is selected by the institution on an individual case-by-case basis;

(C) Would otherwise be unable to afford the costs of this employment; and

(ii) The number of students compensated under paragraph (a)(2)(i) of this section is not more than 10 percent of the total number of students paid under the FWS Program at the institution.

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(iii) The student is performing family literacy activities in a family literacy project that provides services to families with preschool age children or children who are in elementary school; or

\* \* \* \* \*

**Subpart C—Work-Colleges Program**

18. Section 675.45 is amended by adding new paragraphs (a)(5) and (a)(6) to read as follows:

**§ 675.45 Allowable costs, Federal share, and institutional share.**

(a) \* \* \*

(5) Coordinate and carry out joint projects and activities to promote work service learning.

(6) Carry out a comprehensive, longitudinal study of student academic

progress and academic and career outcomes, relative to student self-sufficiency in financing their higher education, repayment of student loans, continued community service, kind and quality of service performed, and career choice and community service selected after graduation.

\* \* \* \* \*

**PART 676—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM**

19. The authority citation for part 676 continues to read as follows:

**Authority:** 20 U.S.C. 1070b–1070b–3, unless otherwise noted.

20. Section 676.10 is amended by revising paragraph (b) to read as follows:

**§ 676.10 Selection of students for FSEOG awards.**

\* \* \* \* \*

(b) *Part-time and independent students.* If an institution's allocation of FSEOG funds is directly or indirectly based in part on the financial need demonstrated by students attending the institution as less-than-full-time or independent students, a reasonable portion of the allocation must be offered to those students.

21. Section 676.18 is amended by revising paragraph (a)(2), and adding new paragraphs (c), (d), (e) and (f) to read as follows:

**§ 676.18 Use of funds.**

(a) \* \* \*

(2) Paying administrative expenses as provided for in 34 CFR 673.7.

\* \* \* \* \*

(c) *Carry forward funds.* (1) An institution may carry forward and expend in the next award year up to 10 percent of the sum of its initial and supplemental FSEOG allocations for the current award year.

(2) Before an institution may spend its current year FSEOG allocation, it must spend any funds carried forward from the previous year.

(d) *Carry back funds.* An institution may carry back and expend in the previous award year up to 10 percent of the sum of its initial and supplemental FSEOG allocations for the current award year. The institution's official allocation letter represents the Secretary's approval to carry back funds.

(e) *Use of funds carried forward and carried back.* An institution may use the funds carried forward or carried back under paragraphs (c) and (d) of this section, respectively, for activities described in paragraph (a) of this section.

(f) *Carry back funds for summer FSEOG awards.* An institution may carry back and expend in the previous award year any portion of its initial and supplemental FSEOG allocations for the current award year to make awards to eligible students for payment periods that begin on or after May 1 of the previous award year but end prior to the beginning of the current award year.

**PART 690—FEDERAL PELL GRANT PROGRAM**

22. The authority citation for part 690 continues to read as follows:

**Authority:** 20 U.S.C. 1070a, unless otherwise noted.

23. Section 690.6 is amended by revising the heading and paragraph (a), and adding new paragraphs (c) and (d) to read as follows:

**§ 690.6 Duration of student eligibility—undergraduate course of study and eligible postbaccalaureate program.**

(a) Except as provided in paragraphs (c) and (d) of this section, a student is eligible to receive a Federal Pell Grant for the period of time required to complete his or her first undergraduate baccalaureate course of study.

\* \* \* \* \*

(c) An otherwise eligible student who has a baccalaureate degree and is enrolled in a postbaccalaureate program is eligible to receive a Federal Pell Grant for the period of time necessary to complete the program if—

(1) The postbaccalaureate program consists of courses that are required by a State for the student to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary or secondary school in that State;

(2) The postbaccalaureate program does not lead to a graduate degree;

(3) The institution offering the postbaccalaureate program does not also offer a baccalaureate degree in education;

(4) The student is enrolled as at least a half-time student; and

(5) The student is pursuing an initial teacher certification or licensing credential within a State.

(d) An institution must treat a student who receives a Federal Pell Grant under paragraph (c) of this section as an undergraduate student enrolled in an undergraduate program for title IV purposes.

24. In § 690.7 paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added to read as follows:

**§ 690.7 Institutional participation.**

\* \* \* \* \*

(c)(1) If an institution loses its eligibility to participate in the FFEL or Direct Loan program under the

provisions of 34 CFR 668.17, it also loses its eligibility to participate in the Federal Pell Grant Program for the same period of time.

(2) That loss of eligibility must be in accordance with the provisions of 34 CFR 668.17(b).

\* \* \* \* \*

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