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# Cash Management

## CHAPTER 5

*The cash management regulations govern a school's management of most FSA program funds. These regulations establish rules and procedures that a school must follow in requesting, maintaining, disbursing, and otherwise managing funds under the Pell Grant, FSEOG, Perkins Loan, FWS, Direct Loan, and FFEL programs.*

These cash management requirements are not applicable to the state grant and scholarship programs because, unlike other FSA programs, the state grant and scholarship programs are administered under rules established by the states. As long as the states administer these programs within the limits established by applicable federal statutes and regulations, the Department allows states administrative discretion in the management of these funds. These state programs are the Special Leveraging Educational Assistance Partnership (SLEAP), the Leveraging Educational Assistance Partnership Program (LEAP— formerly the State Student Incentive Grant [SSIG] Program), the Robert C. Byrd Honors Scholarship (Byrd) Program, and the Gaining Early Awareness and Readiness for Undergraduate Programs (which replaces the National Early Intervention Scholarship and Partnership [NEISP] Program).



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### Cash management cite

34 CFR Subpart K

## PURPOSE OF CASH MANAGEMENT REGULATIONS

- The cash management regulations are intended to:
- promote sound cash management of FSA program funds by schools;
- minimize the costs to the government of making FSA program funds available to students and schools; and
- minimize the costs to students who receive FSA loans.

Except for funds received as an administrative cost allowance (ACA), the FSA program funds received by a school are intended solely for the use of student beneficiaries. All other funds are held in trust by the school for students, the Department, and, in the case of FFEL program funds, for lenders and guaranty agencies. FSA program funds cannot be used as collateral or for any other purpose.

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### Purpose of regulations cite

34 CFR 668.161

These rules and procedures also apply to a third-party servicer. For more information about third-party servicers, see the discussion in chapter 2.

## REQUESTING FUNDS

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### Requesting funds cite

34 CFR 668.162, except as noted

Currently, the Department provides Pell Grant, Direct Loan, and campus-based program funds to most schools either by the *advance payment method* or the *reimbursement payment method*. A third method for requesting funds from the Department is the *just-in-time payment method*. A fourth method called *cash monitoring* is also discussed later. The Department has the sole discretion to determine the method under which FSA program funds are provided to a school (although at this time, participation in the just-in-time payment method is voluntary).

### *The advance payment method*

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### Advance payment method cite

34 CFR 668.162(b)

Under the advance payment method, a school may submit a request for Pell Grant, Direct Loan, and campus-based program funds to the Department prior to disbursing aid to eligible students and parents. If the Department accepts a school's request for funds, it will make an electronic funds transfer (EFT) of the amount requested to a bank account designated by the school. A school may not request more funds than the school needs immediately for disbursements the school has made or will make to eligible students and parents. Therefore, a school must make the disbursements as soon as administratively feasible, but no later than three business days following the date the school receives those funds.

The Department does not automatically accept a request for funds from a school under the advance payment method. For example, the Department may reject a request if the amount of the request exceeds the amount of funds the school is authorized to draw down.

### *The reimbursement method*

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### Reimbursement payment method cite

34 CFR 669.162(d)

Under the reimbursement method, a school must disburse Pell Grant, Direct Loan, and campus-based program funds to eligible students and parents before requesting funds from the Department. Generally, the Department places a school on the reimbursement payment method if it determines that there is a need to monitor strictly the school's participation in the FSA programs. The school cannot request more cash than the amount that it actually disbursed to those eligible students and parents. As part of the school's request the school must

- identify the students and parents for whom it is seeking reimbursement; and
- submit documentation demonstrating that each student and parent included in the request was eligible to receive and

has received the FSA program funds for which reimbursement is requested.

Before approving a school's request for funds, the Department determines that the school has

- accurately determined the FSA eligibility of each student;
- accurately determined the FSA payment to each student and parent included in its request; and
- submitted the required documentation.

### *Requesting loan funds from an FFEL lender*

The rules for when loan payments can be disbursed to students, based on the starting date of a payment period, are discussed in Volume 8, chapter 3. Once the anticipated dates of the disbursement to the student have been established, you can specify to the lender the dates on which you need to receive the loan funds. You may set an earlier "disbursement date" for the lender as part of the school certification of the loan, so that you receive the loan funds in advance of the date that you expect to pay the student. (In the certification process, the term "disbursement" usually refers to the transfer of funds from the lender to the school, rather than the payment to the student.)

However, you shouldn't request funds transfer too far in advance of the point where you may pay the borrower, because you must credit the student's account or pay the student or borrower within the time limits set by the Cash Management regulations. To observe the standard 3-day turnaround time for payment of FSA funds to the student, the Cash Management regulations stipulate that a school cannot ask the lender to provide the Stafford or PLUS loan funds any sooner than 3 days before the earliest date that the school is allowed to pay the funds to the student. (See 34 CFR 668.167(a))

If the lender transfers funds to your school by EFT or master check, you may not request that the lender provide the loan funds any sooner than the 13th day before the first day of classes of the payment period. As noted above, some schools are required to wait 30 days after the first day of classes before disbursing FFEL/DL funds to first-year, first-time borrowers. If the loan is subject to the 30-day delayed disbursement requirement, you may not request that the lender provide Stafford Loan funds any sooner than the 27th day after the first day of classes of the first payment period.

In the case of a lender that transfers funds to a school by check requiring the endorsement of the borrower, you may not request lender disbursement of the borrower's loan proceeds until the 30th day before the first day of classes for a payment period. If the loan payment is subject to the 30-day delayed disbursement requirement for a first-time, first-year borrower, you may not request that the lender provide the Stafford Loan funds any sooner than the first day of classes of the first payment period.

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**Limitations on use of FFEL funds cite**

34 CFR 668.167(d)

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**Receiving loan funds**

In the Direct Loan Program, a school receives loan funds from the Loan Origination Center, or by directly from the Department's payment system. In the FFEL program, the lender transfers loan funds to the school on the dates specified by the school.

The Direct Loan Origination Center has always used electronic funds transfer (EFT) to transfer funds. Most FFEL lenders use EFT or a master check to send a single disbursement to the school for multiple borrowers.

For FFEL funds, the school acts as a trustee for the lender, and the funds must be deposited in an account meeting the requirements of 34 CFR 668.163. When sending funds via EFT or a master check, the lender must provide a list of the names, Social Security Numbers, and loan amounts of the borrowers whose payments are considered a part of those funds.

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**Delaying returning funds cite**

34 CFR 668.162(c)(6)

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**Cash monitoring payment method cite**

34 CFR 668.162(e)

## Limitations on use of FFEL funds

There are comparable limitations on the use of FFEL funds. If a school is placed on reimbursement or if a school that participates only in the FFEL program has most of the limitations of reimbursement placed on it, the school

- may not disburse FFEL program funds to a borrower until the Department approves the school's request to disburse funds to that borrower; and
- if prohibited by the Department, may not certify a loan application for a borrower until the Department approves the school's request to make the certification for that borrower (this restriction becomes effective on the date that the Department notifies a school that it must obtain approval from the Department to certify loan applications).

The school must provide documentation demonstrating that each borrower included in the request is eligible to receive the disbursement or certification. The documentation must be provided to the Department or an entity approved by the Department for that purpose (for example, a certified public accountant, financial aid consultant, or guaranty agency).

Until the Department approves a request, the school may be

- prohibited from endorsing a master check or obtaining a borrower's endorsement of any loan check the school receives from a lender;
- required to maintain loan funds that it receives from a lender via EFT in a separate bank account; and
- prohibited from certifying a borrower's loan application.

Because the school's submission and the Department's review of documentation to support a borrower's eligibility takes time, the school may delay returning FFEL Program funds provided by EFT or master check to a lender for a specified period of time (see *Volume 8 — Direct Loans and FFEL Programs*).

**Note:** This provision is applicable only in the FFEL programs.

## *The cash monitoring payment method*

The cash monitoring payment method is similar to the reimbursement payment method, but less onerous. As with the reimbursement payment method, under the cash monitoring payment method a school must make disbursements to eligible students and parents before it may request or receive funds for those disbursements from the Department.

However, unlike the reimbursement payment method, where a school must provide detailed documentation for each student to whom it made a disbursement before the Department provides FSA program funds to the school, the Department provides funds to a school in one of two less restrictive ways:

- The Department allows a school to make a draw of FSA program funds for the amount of the disbursements the school has made to eligible students and parents; or
- The Department reimburses the school for those disbursements based on a modified and streamlined review and approval process.

For example, instead of requiring a school to provide detailed documentation for each student to whom the school made a disbursement and reviewing that documentation before providing funds to the school, the Department may simply require the school to identify those students and their respective disbursement amounts and provide FSA program funds to the school based solely on that information.

A school that is placed under the cash monitoring payment method is subject to the disbursement and certification provisions that apply to FFEL program funds when a school is placed on reimbursement, but in keeping with the nature of cash monitoring, the Department may modify those provisions.

The Department may tailor the required documentation requirements on a case-by-case basis.

### *The just-in-time payment method*

Under the just-in-time payment method pilot, a school submits a disbursement record (which is both a report of a disbursement and a request for funds) no earlier than five days before the actual reported date of disbursement. For each request the Department accepts for a student or parent, the appropriate amount of funds is deposited directly into the school's bank account.

Schools participating in the just-in-time payment method pilot are exempt from the following regulatory requirements with respect to Federal Pell Grant funds:

1. the *three-day-use* rule required for and discussed previously under the *Advance payment method*;
2. the recertification of student eligibility at the time of disbursement (an institution may rely on its determination at the time it submits the disbursement record for Federal Pell Grant funds);

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**Just-in-time  
payment method cite**  
34 CFR 668.162(c)

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**Three-day rule cite**  
34 CFR 668.162(b)(3)

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**Recertification cite**  
34 CFR 668.162(c)(3)

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**Federal funds account cite**

34 CFR 668.163(c)(3)(iii)

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**Excess cash cite**

34 CFR 668.166(a)(2)

3. the requirement that an institution maintain Federal Pell Grant funds in an interest-bearing bank account (see the discussion under *Maintaining and accounting for funds* later in this chapter); and
4. the *excess-cash* rules (see the discussion under *Excess cash* later in this chapter).

For pilot participants, this regulatory relief does not extend to FSA programs other than the Pell Grant Program.

## GAPS

To facilitate implementation of the Education Central Automated Processing System (EDCAPS), section 668.162(a)(2) of the Student Assistance General Provisions regulations requires that each time a school requests funds from the Department, the school must identify the amount of funds requested by FSA program using the program and fiscal year designation (grant award number) that the Department assigned to the authorized funds.

Within EDCAPS is the Grants Administration and Payments System (GAPS), a delivery system that supports Title IV award and payment administration. GAPS provides on-line capabilities to request payments, adjust drawdowns, and report expenditures from the Department. It also provides continuous access to current grant and payment information, such as authorization amounts, cumulative drawdowns, current award balances, and payment histories.

Schools that participate in FSA programs that require them to submit a payment request, such as Pell Grants or campus-based programs, use GAPS to request funds. Direct Loan funds also can be drawn through the GAPS system. GAPS can be accessed through the Internet at the GAPS Web page

**<http://gapsweb.ed.gov>**.

The GAPS Web training page provides in-depth information on the GAPS system and training information for the payment request process, including the *GAPS Payee's Guide*. The address of the GAPS training page is

**<http://gapsweb.ed.gov/training>**.

The GAPS Payee Hotline phone number is 1-888-336-8930.



## MAINTAINING AND ACCOUNTING FOR FUNDS

All schools must maintain a bank account into which the Department transfers, or the school deposits, FSA program funds. The account must be federally insured or secured by collateral of value reasonably equivalent to the amount of FSA program funds in the account. A school is not required to maintain a separate account for FSA program funds unless the Department specifies otherwise.

A school is not required to maintain a separate bank account for FFEL program funds that the school receives from a lender by EFT. A school must maintain and account for FFEL program funds in the same manner required for other FSA program funds.

### *Bank account notification requirements*

For each account that contains FSA program funds, a school must identify that FSA program funds are maintained in the account by

- including the phrase *federal funds* in the name of the account, or
- notifying the bank or investment company of the accounts that contain FSA program funds and keeping a copy of this notice in its records *and*, except for public institutions, filing an UCC-1 statement with the appropriate state or municipal government entity that discloses that an account contains federal funds.

The school must keep a copy of the UCC-1 statement in its records.

The requirement that a school file a UCC-1 statement when an account's name does not include the phrase *federal funds* was established to reduce the possibility that a school could misrepresent federal funds as its own funds to obtain a loan or secure credit. Because public institutions generally do not seek to obtain credit in the same manner as private institutions, they are exempt from the requirement.

The Department may require a school to maintain FSA program funds in an account that contains only FSA program funds if the Department determines that the school failed to comply with cash management requirements, recordkeeping and reporting requirements, or other program regulations.

### *Interest-bearing or investment account*

Except in the instances discussed below, the account that Direct Loan, Pell Grant, FSEOG, and FWS program funds are deposited in must be an interest-bearing account or an investment account. An investment account must consist predominantly of low-risk income-producing securities. If a school chooses to maintain federal funds in an investment account, the school must maintain sufficient liquidity in that account to make required disbursements to students.

**Maintaining and accounting for funds cite**

34 CFR 668.163

Any interest earned on Direct Loan, Pell Grant, FSEOG, and FWS program funds maintained in an interest-bearing account or an investment account that exceeds \$250 per award year, must be remitted to the Department by June 30 of that award year. A school may keep up to \$250 per year of the interest or investment revenue earned (other than that earned on Perkins Loan funds) to pay for the administrative expense of maintaining an interest-bearing account. However, a school must keep any interest earned on Perkins Loan funds for transfer to the Perkins Loan Fund.

### Exceptions

A school is not required to maintain Direct Loan, Pell Grant, FSEOG, and FWS program funds in a interest-bearing account or an investment account for an award year if:

- the school drew down less than \$3 million from these funds in the prior award year and anticipates that it will not draw down more than \$3 million in the current award year;
- the school can demonstrate that it would not earn over \$250 in interest on the funds it will draw down during the award year; or
- the school requests these funds under the just-in-time payment method.

### Federal Perkins Loan Program participants

A school that participates in the Perkins Loan Program must always maintain an interest-bearing account or an investment account for Perkins Loan funds. If a school is also required to maintain an interest-bearing account or investment account for other federal funds, the school may use one account for Perkins Loan funds and all other federal funds. However, if the school chooses to maintain one account, it must determine the exact amount of any interest earned on the Perkins Loan funds for transfer to the Perkins Loan Fund.

### *Accounting and financial requirements*

If a school is not required and does not choose to maintain separate accounts, it must maintain accounting and internal control systems that:

- identify the balance of the funds of each FSA program that are included in the school's bank or investment account as readily as if those funds were in a separate account; and
- identify earnings on FSA program funds in the school's bank or investment account.

A school must maintain its financial records in accordance with the recordkeeping requirements of 34 CFR 668.24 (see chapter 8).



## DISBURSING FUNDS

These disbursement requirements apply to all the FSA programs specified at the beginning of this chapter, except for the FWS Program. In paying a student his or her wages under the FWS Program, a school must follow the disbursement procedures in 34 CFR 675.16 (see *Volume 6 — Federal Work-Study Program*).

### Definition of disbursed

FSA program funds are disbursed when a school credits a student's account with the funds or pays a student or parent directly with:

- FSA program funds received from the Department,
- FFEL funds received from a lender, or
- institutional funds labeled as FSA program funds in advance of receiving actual FSA program funds (except in the instances noted below).

It is important to distinguish when FSA program funds have been disbursed for a number of reasons. To begin with, once FSA program funds have been disbursed, a student becomes an FSA recipient and the rights and responsibilities of an FSA recipient are in effect. For example, if the student is an FSA loan recipient, he or she assumes responsibility for the loan (and all interest accruing on the loan if it is unsubsidized), and has the right to cancel the loan. In addition, knowing when an FSA disbursement occurs will allow a school to determine when it must comply with regulatory requirements related to disbursements and other cash management issues.

**This definition of *disbursed* makes clear that any funds labeled as FSA program funds are FSA program funds.**

### Exceptions

Because of other FSA program requirements, there are two instances when crediting institutional funds labeled as FSA program funds to a student's account in advance of receiving the actual FSA program funds will not result immediately in an FSA disbursement:

- If a school credits a student's account with the institutional funds in advance of receiving FSA program funds earlier than 10 days before the first day of classes of a payment period, the FSA disbursement does not occur until the tenth day before the first day of classes (see the example). This provision corresponds to the *Early disbursement* requirements discussed later in this chapter.
- For a student whose loan funds are subject to the 30-day disbursement delay, if a school credits the student's account with institutional funds in advance of receiving FSA program

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### Disbursing funds cite

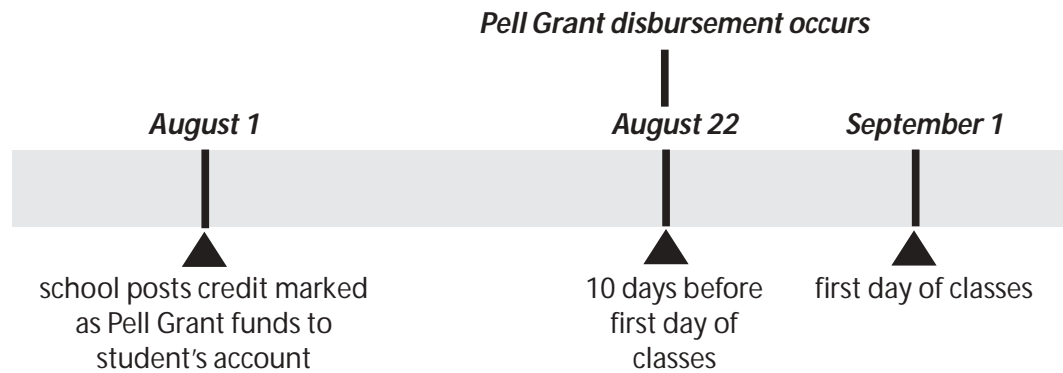
34 CFR 668.164

funds earlier than 30 days after the first day of the payment period, the FSA loan disbursement does not occur until the 30th day after the beginning of the payment period.

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### Advance Credit to Account Example

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**Note:** If a school simply makes a memo entry for billing purposes or credits a student's account and does not identify it as an FSA credit (for example, an *estimated Federal Pell Grant*), the disbursement does not occur until the posting is subsequently converted to an actual credit. If the posting is never converted to an actual credit, it never becomes an FSA program disbursement.

#### Disbursement by crediting a student's account

When a school disburses FSA program funds to a student by crediting a student's account, it may only do so for allowable charges. Funds in excess of the allowable charges must be paid directly to the student, unless otherwise authorized *in writing* by the student. (An exception is discussed under *Prior year charges* later in this chapter.)

### TIME FRAMES TO DISBURSE LOAN FUNDS OR RETURN THEM

The Cash Management regulations (34 CFR 668.167) establish specific time frames for schools to disburse FFEL Program funds or return the funds to the lender. In the Direct Loan Program, the school takes on a greater role with respect to the management of loan funds—for a detailed discussion of Direct Loan procedures, please see the *Direct Loan School Guide*.

For purposes of the cash management regulations and this discussion, returning funds *promptly* means that a school may not delay its normal process for returning FFEL Program funds to lenders. Also for these purposes, the requirement that a school *return funds no later than* a certain number of days means that a

school must mail a check or initiate an EFT of FFEL funds to the lender by the close of business on the last day of that period.

### *Time frames for disbursing FFEL funds received from lender*

When a school receives FFEL Program funds from the lender by EFT or master check, it usually must credit the student's account or issue a direct payment to the eligible student (or parent borrower) within three business days. If the FFEL lender provided the loan funds through a check requiring the endorsement of the student or parent, the school must credit the student's account or issue a direct payment to the eligible student (or parent borrower) no later than 30 calendar days after the school receives the funds.

In some cases, a school may receive the loan funds at a point when the student is temporarily not eligible for payment—for instance, if the student needs to complete the clock hours or credit hours in the previous payment period (for an academic program without terms). If a school expects a student who is temporarily ineligible to become eligible for payment in the immediate future, the school has an additional 10 business days to disburse the funds. In effect, this means that the school can wait 13 days after receipt of the EFT or master check (40 days for a check requiring endorsement) to pay a student who is expected to regain eligibility during this 10-day window.

### *Verification extension*

If a school chooses to certify or originate a Stafford Loan for a student who was selected for verification, the verification regulations allow the school to hold the loan proceeds for 45 days. If the applicant does not complete the verification process within the 45-day period, the school must return the loan funds to the lender.

If the student's eligibility was reduced as a result of verification, the school may pay the full disbursement if the excess amount can be eliminated by reducing subsequent disbursements for the applicable loan period. (The school must advise the lender to reduce the subsequent disbursements.) If the excess funds cannot be eliminated in subsequent disbursements for the applicable loan period, the school must return the excess funds to the lender.

### *Time frame for returning undisbursed FFEL loan funds*

A school must return FFEL Program funds that it does not disburse by the end of the initial or conditional period, as applicable, promptly but no later than 10 business days from the last day allowed for disbursement. However, if a student becomes eligible to receive FFEL program funds during the return period, the school may disburse those funds provided that the disbursement is made on or before the last day of the return period.

### **Proration of loan fees for returned FFEL funds**

If a school returns an FFEL disbursement or any portion of an FFEL disbursement to a lender, the origination fee and insurance premium are reduced in proportion to the amount returned. If a student returns an FFEL disbursement or any portion of an FFEL disbursement to the lender, the origination fee and insurance premium are reduced in proportion to the amount returned only if the lender receives the returned amount within 120 days after disbursement.

For information on how returning Direct Loans affects loan fees and accrued interest on loans, see the Direct Loan School Guide.

### **Allowable charges**

Allowable charges are:

- current charges for tuition and fees (as defined in section 472 of the Higher Education Act of 1965, as amended [HEA]), room and board (if the student contracts with the school), and
- other current charges that a student incurs for educationally related activities, if the school obtains the student's or parent's *written authorization* to have such charges credited with FSA Program funds.

**If a charge does not meet the definition of tuition and fees in Section 472 of the HEA (with the exception of contracted room and board charges), the school must obtain the student's permission (or parent's, if applicable) to credit the student's account with FSA program funds for the charges.**

### **Disbursing FSA funds directly**

In addition to crediting a student's account, FSA program funds may be disbursed directly to a student or parent. A school may disburse funds *directly* by one of four methods:

- releasing a check provided to the school by a FFEL program lender to the student or parent;
- issuing a check or other instrument payable to and requiring the endorsement or certification of the student or parent (a check is issued if the school releases or mails the check to a student or parent, or notifies the student or parent that the check is available for immediate pickup);
- initiating an electronic funds transfer (EFT) to a bank account designated by the student or parent; and
- paying the student in cash, provided that the school obtains a signed receipt from the student or parent.

A parent borrower of PLUS Loan funds may (in writing) authorize the school to transfer the proceeds of a PLUS Loan to a bank account in the student's name.

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#### **Direct payments cite**

34 CFR 668.164(c)

The law requires a school that disburses Direct Loans to student accounts to first use Direct Loan funds to pay for outstanding allowable charges. This does not mean that Direct Loan funds must be credited to a student's account prior to other funds. The law simply requires that if there is any outstanding balance for current or authorized charges on the student's account when Direct Loan funds are disbursed, the Direct Loan funds must be applied to those outstanding charges before any Direct Loan funds may be disbursed directly to the borrower.

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### Applying direct loan funds cite

CFR 34 668.164(d)(3)

## DISBURSEMENT BY PAYMENT PERIOD

Schools must disburse all FSA program funds (except FWS) on a payment period basis. (For more information on the definition of a *payment period*, see chapter 2.) However, disbursement requirements vary by program. For information on the specific effects of the payment period disbursement requirement on disbursement of funds under a particular FSA program, please see the applicable Handbook chapter.

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### Disbursement by payment period cite

34 CFR 668.164(b)

Sec. 428G(a)

Under certain circumstances schools are permitted exemptions from the multiple disbursement and 30-day delay requirements. For more information, see *Volume 8 — Direct Loans and FFEL Programs*.

Unless a student is eligible to receive a late disbursement of FSA program funds, a school may disburse FSA program funds to a student or parent for a payment period only if the student is enrolled for classes for that payment period and is eligible to receive those funds.

### Excused absences

An excused absence (an absence that does not have to be made up) may be counted as a completed clock hour under certain circumstances. For a student enrolled in a program measured in clock hours, the school may include clock hours for which the student has an excused absence in determining whether the student completes the clock hours in the payment period if:

- the school has a written policy that permits excused absences; and
- for FSA purposes, the number of excused absences under the policy does not exceed the lesser of
  1. the policy on excused absences of the school's designated accrediting agency,
  2. the policy on excused absences of any state agency that legally authorizes the school to operate, or
  3. 10% of the clock hours in the payment period.

An excused absence may only be counted if the student is excused from hours that were actually scheduled, were missed, and are not to be made up.

## EARLY DISBURSEMENTS

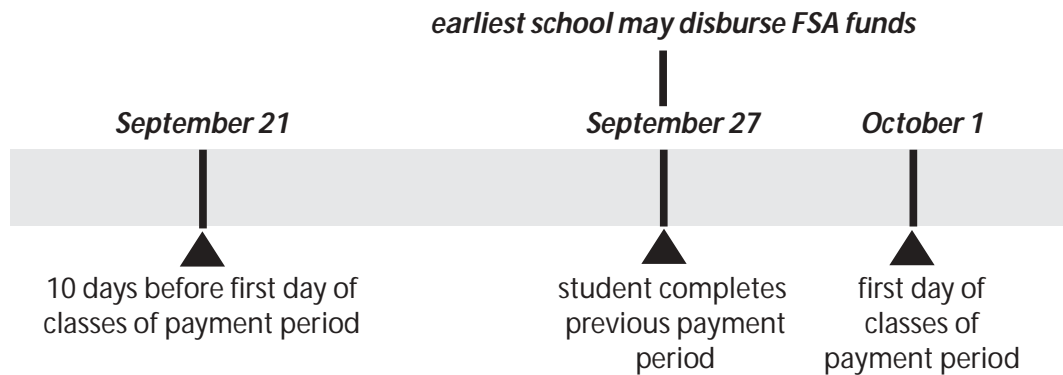
### Early disbursements cite

34 CFR 668.164(f)

The earliest a school may disburse FSA program funds is

- for a student enrolled in a credit-hour program offered in semester, trimester, or quarter academic terms, 10 days before the first day of classes for a payment period;
- for a student enrolled in a clock hour program or a credit-hour program that is not offered in semester, trimester, or quarter academic terms, the later of 10 days before the first day of classes for the payment period, or the date the student completed the previous payment period for which he or she received FSA program funds (see the example below).

### Early Disbursement Example



If a student is in the first year of an undergraduate program and is a first-time borrower under the FFEL or Direct Loan program, a school may not disburse the first installment of his or her loan until 30 days after the student's first day of classes.

### Exception cite

34 CFR 682.604(c)(5)(i) and (ii)

An exception is permitted if under subpart M of 34 CFR part 668

- a school that has a cohort default rate, of less than 10 percent for each of the three most recent fiscal years for which data are available; or
- a school is an eligible home institution certifying a loan to cover the student's cost of attendance in a study abroad program and the school has a cohort default rate of less than 5 percent for the single most recent fiscal year for which data are available.



## LATE DISBURSEMENTS

A student who withdraws or otherwise ceases attendance has lost FSA eligibility and generally may not be paid further funds for the enrollment period. However, a late disbursement of FSA program funds may be made to an ineligible student if the student became ineligible only because:

- for purposes of the Direct Loan and FFEL programs, the student is no longer enrolled at the school as at least a half-time student for the loan period (the student became ineligible solely because of the change in enrollment status); and
- for purposes of the Pell Grant, FSEOG, and Perkins Loan programs, the student is no longer enrolled at the school for the award year.

In addition, other conditions must be met depending on the FSA program from which the late disbursement is to be made.

A school may make the late disbursement only if the funds are used to pay for unpaid educational costs that the school determines the student incurred for the period in which the student was enrolled and eligible. A school is not required to obtain detailed expenditure documentation from the student. Instead, the school may develop a policy that it applies in all cases. For example, a school may adopt a policy that all expenses for books and supplies are considered to have been incurred by a student who withdraws after the first two weeks of the term (provided that this policy does not conflict with any applicable refund requirements).

The school must make the late disbursement to the student no later than 90 days after the date the student becomes ineligible. For an FFEL that had been certified prior to the student becoming ineligible, the funds would have to be disbursed to the school by the lender in sufficient time for the school to disburse the funds to the student within 90 days of the date the student became ineligible.

The term *post-withdrawal disbursement* was created to distinguish disbursements made after a student withdraws from disbursements made after a student loses eligibility (late disbursements). A post-withdrawal disbursement is Title IV aid a student has earned by virtue of the Return of Title IV Funds calculation, that was not disbursed before the student withdrew. It is integral to the new Return of Title IV Funds concept. Although a post-withdrawal disbursement is not the same as a *late disbursement*, it must meet the conditions established for a late disbursement. See additional comments and summaries in chapter 6.

### Late disbursements cite

34 CFR 668.164(g)

### When loan funds arrive after the period of enrollment

If an FFEL lender provides the Stafford or PLUS funds after the end of the period of enrollment for which the loan was made, a late disbursement can only be made if it is the first disbursement of the loan, and comes with a notice from the lender stating that it is a late first disbursement. If the student is not eligible for a late disbursement, the school has 30 days to return the Stafford or PLUS funds to the lender.

## Late Disbursements

<i>Program</i>	<i>A late disbursement may be made if, before the date the student becomes ineligible . . .</i>		
<i>Direct Loans</i> <sup>1,2</sup>	SAR or ISIR with official EFC is received (all programs)	electronic origination record is created	For a first-year, first-time borrower, student completed first 30 days of the program <sup>3</sup>
<i>FFEL Loans</i> <sup>1</sup>		loan application is certified	
<i>Pell</i>		Valid SAR or ISIR is received	
<i>SEOG</i>		Student is awarded grant	
<i>Perkins</i> <sup>2</sup>		Student is awarded loan	

- 1 A school may not make a late second or subsequent disbursement of a Direct Subsidized or Direct Unsubsidized loan, or a FFEL Stafford Loan, unless the student has graduated or successfully completed the period of enrollment for which the loan was intended.
- 2 A school may not make any disbursement of Direct or Perkins loan funds to a student for whom it does not have a signed promissory note.
- 3 See exceptions under "Early Disbursements."

### Credit balances cite

34 CFR 668.164(e)

### Fees prohibited

Schools are prohibited from charging students a fee for delivering Title IV FSA funds. If a school delivers FSA funds to students by crediting funds to a **school issued** debit or smart card, the school may not charge students a fee for making withdrawals of FSA program funds from that card.

## FSA CREDIT BALANCES

Whenever a school credits FSA program funds to a student's account, and those funds exceed the student's allowable charges, an FSA credit balance occurs. A school must pay the excess FSA program funds (the credit balance) directly to the student as soon as possible, but no later than 14 days after the later of:

- the date the balance occurred on the student's account, if the balance occurred after the first day of class of a payment period (see *Example 1*); or
- the first day of classes of the payment period if the credit balance occurred on or before the first day of class of that payment period (see *Example 2*).

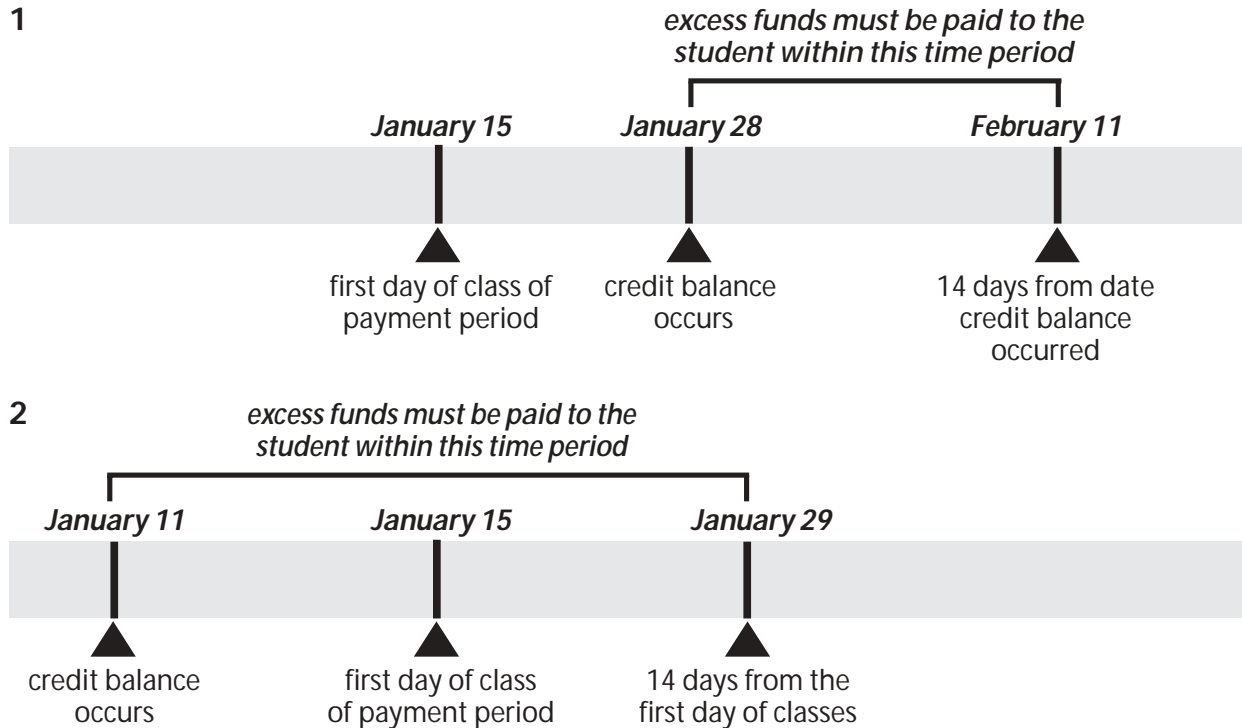
**An FSA credit balance occurs only if the total amount of FSA program funds exceeds allowable charges.** For example, if a student's total allowable charges are \$1,500, and credits to the student's account comprise \$1,000 in FSEOG, \$500 in state aid funds, and \$500 in Pell Grant funds, although there is an excess of \$500 on the account, an FSA credit balance would not exist. This is because the total amount of FSA program funds (\$1,500) does not by itself exceed the amount of allowable charges (\$1,500). If, in this example, the amount of Pell Grant funds credited to the student's account was \$600 rather than

\$500, an FSA credit balance of \$100 would exist: \$100 is the amount by which the total FSA program funds credited to the account (\$1,600) would exceed the allowable charges (\$1,500). The order in which these funds were credited does not matter.

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### Payment of a Credit Balance Example

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The law requires that any excess PLUS Loan funds be returned to the parent. Therefore, if a school determines that PLUS Loan funds created a credit balance, the credit balance would have to be given to the parent. At this time, the Department does not specify how a school must determine which FSA program funds create an FSA credit balance, except to say that Direct Loan funds must be applied to unpaid institutional charges before they can be applied to other charges or disbursed to the student.

The Department does not address the treatment of credit balances that are created by non-FSA program funds. **Previously**, under the FSA refund requirements, when a student withdrew, all credit balances had to be eliminated before a refund calculation was performed. For information on the treatment of credit balances under the **new** return to Title IV funds requirement when a student withdraws, see chapter 6.

### *Holding credit balances*

A school is permitted to hold excess funds (credit balances) if it obtains a voluntary authorization from the student or parent. If a school receives authorization to hold excess funds, the school must identify the student or parent and the amount of funds the school holds for the student or parent in a subsidiary ledger account designated for that purpose. The school also must maintain, at all times, cash in its bank account at least equal to the amount the school holds for students. Because FSA program funds are awarded to students to pay current year charges, notwithstanding any authorization obtained by a school from a student or parent, the school must pay

- any remaining balance on loan funds by the end of the loan period, and
- any other remaining FSA program funds by the end of the last payment period in the award year for which they were awarded.

If a school cannot locate a student to whom an FSA credit balance must be paid (i.e., the school has exhausted all possible avenues to find the student), the school must return the credit balance to the Department. In this case, a school will have to determine which FSA program funds created a credit balance before it can return funds to the FSA programs. As mentioned previously, the Department does not specify how a school must determine which FSA funds create a credit balance. However, when possible, the Department encourages schools to return FSA program funds to loan programs first to reduce the likelihood of default.

The school is permitted to retain any interest earned on the student's credit balance funds. The Department may prohibit a school that has been placed on reimbursement from holding excess funds. If the Department determines that the school has failed to meet the financial responsibility standards, a limitation may be placed on the school preventing it from holding excess funds for any student.

### **PRIOR-YEAR CHARGES**

In general, FSA program funds are allowed to be used to pay only for educational expenses a student incurs in the period for which those funds are provided. However, a school is permitted to use a student's FSA program funds to pay minor prior-year institutional charges if the student has, or will have, an FSA credit balance and the school obtains the student's or parent's authorization to pay the prior-year charges.

A school may obtain authorization from a student in advance to use FSA program funds to cover prior-year charges that are less than \$100. Before paying prior-year charges for amounts equal to or greater than \$100, in addition to obtaining an authorization, a school must determine that payment would not prevent the student from paying

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#### **Prior-year charges cite**

34 CFR 668.164(d)

for his or her current educational expenses (including both institutional charges and noninstitutional costs of attendance).

## REQUIRED SCHOOL NOTIFICATIONS

Before a school disburses FSA program funds for any award year, the school must notify a student of the amount of FSA program funds the student and his or her parent can expect to receive from each FSA program, and how and when those funds will be disbursed. If those funds include Direct Loan or FFEL program funds, the notice must indicate which funds are from subsidized loans and which are from unsubsidized loans.

A school must provide the best information it has regarding the amount of FSA program funds a student can expect to receive. Because the actual loan disbursements received by a student may differ slightly from the amount expected by the school (due to loan fees and rounding differences), a school may include the gross amount of the loan disbursement or a close approximation of the net disbursement amount.

### *Opportunity for loan cancellation*

Because incurring a loan obligation is a serious responsibility, a borrower must be given the opportunity to cancel the loan at or close to the time the funds are actually disbursed and the debt incurred. Notification of when a loan disbursement occurs and the right to cancel is required to remind borrowers of their loan obligation and to give students the opportunity to replace credited loan proceeds with other funds. Therefore, the school must notify a student or parent in writing or electronically whenever the school credits the student's account with Direct Loan, FFEL, or Perkins Loan program funds. The notification must include

- the date and amount of the disbursement;
- the right of the student or parent borrower to cancel all or a portion of the loan (this is applicable to FFEL program funds only if the school received the loan funds from a lender through EFT payment or master check); and
- the procedures and the time by which the student or parent borrower must notify the school that he or she wishes to cancel the loan or a portion of the loan.

A school is not required to provide notification of cancellation rights if the school disburses an FFEL directly to the student or parent by check. This is because a student or parent who receives an FFEL disbursement via check has the opportunity to refuse the funds by not endorsing the check or by returning it.

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### Required school notifications cite

34 CFR 668.165

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### Electronic notification cite

34 CFR 668.165(a)(3)(ii)

## Clarification

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### Electronic notices and authorizations

So long as there are no regulations specifically requiring that a notification or authorization be sent via U.S. mail, a school may provide notices or receive authorizations electronically.

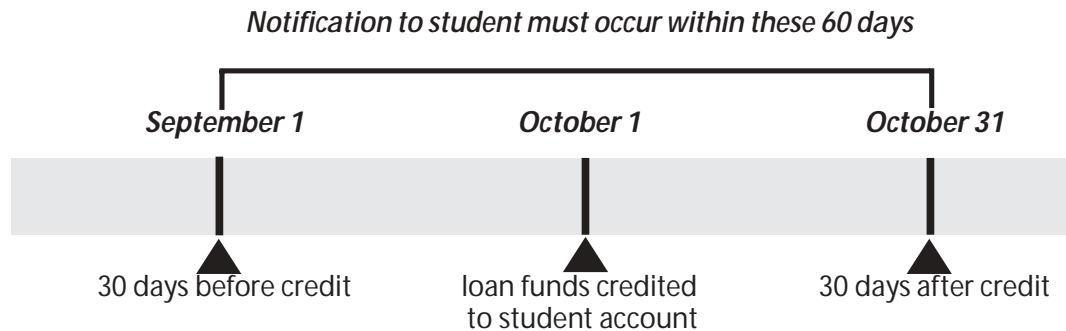
Presently, a school that notifies a borrower that it is crediting the borrower's account via electronic means must confirm receipt of the electronic notice and must maintain documentation of that confirmation.

This notification of crediting a student's account with loan funds must be sent no earlier than 30 days before and no later than 30 days after crediting the student's account (see example below).

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### Notification When to Credit Account Example

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A school may not use an in-person or telephonic conversation as the sole means of notification. In-person and telephonic conversations are not adequate and verifiable methods of providing notice. However, notification to borrowers in-person and by telephone may be done in addition to providing written or electronic notice.

Once the school has provided notification, if the student or parent wishes to cancel all or a portion of a loan, he or she must inform the school. The school must honor the request if the request is received no later than

- 14 days after the date the school sends the notice (see *Example 1* below); or
- the first day of the payment period, if the school sends the notice more than 14 days before the first day of the payment period (see *Example 2* below). If a student's or parent's request for cancellation is received within the specified time period, the school must return the loan proceeds and/or cancel the loan as appropriate. If a student's or parent's request for cancellation is received after the specified time period, the school may, but is not required to, honor the request. **Regardless of when the request is received, the school must inform the student or parent, of the outcome of the request**

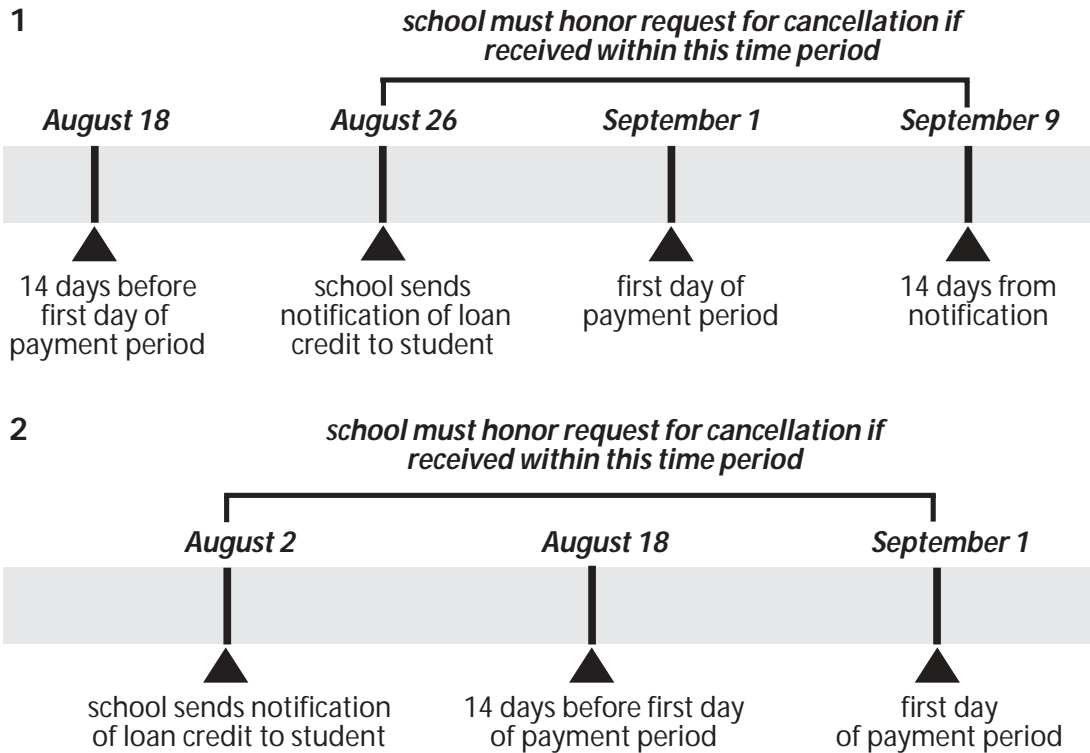
A school is not responsible for returning any portion of a loan that was disbursed to a student or parent directly before the request for cancellation was received. However, a school is encouraged to take an active role in advising the borrower to return the funds already received.



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## 14 Day Cancellation Period Example

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## REQUIRED STUDENT AUTHORIZATIONS

As discussed previously in this chapter, a school must obtain authorization from a student (or parent borrower) before:

- disbursing FSA program funds (including Federal Work-Study) by EFT to a bank account designated by the student or parent;
- using FSA program funds (including Federal Work-Study) to pay for allowable charges other than tuition, fees, and room and board (if the student contracts with the school);
- transferring FFEL funds via EFT or master check (if an authorization is not obtained on an Master Promissory Note or PLUS Loan Application);
- holding excess FSA program funds (credit balances); and
- applying FSA program funds to prior-year charges.

In obtaining an authorization from a student or parent, a school may not require or coerce the authorization and must notify the student or parent that he or she may cancel or modify the authorization at any time. Once a student or parent cancels or modifies his or her authorization, the school may not perform the function, or must perform the function as modified, from that date forward.

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**Required student authorizations cite**

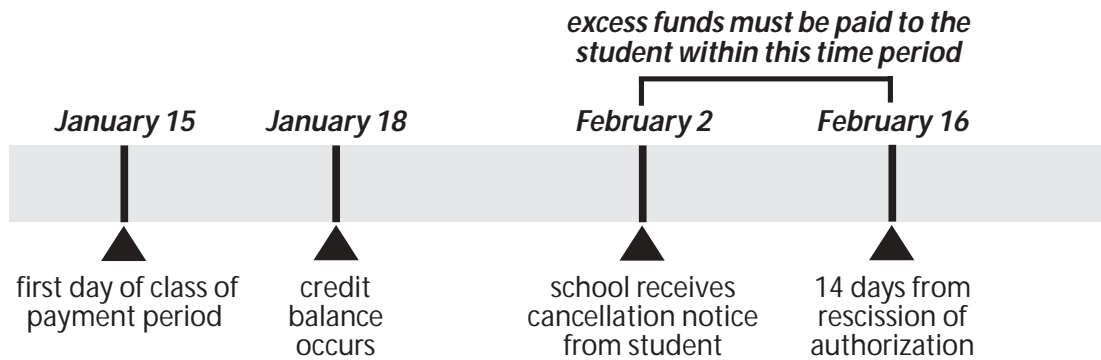
34 CFR 668.165

A cancellation or modification is not retroactive. If a student or parent cancels an authorization to use FSA program funds to pay for allowable charges other than tuition, fees, and room and board (if the student contracts with the school), or prior-year charges, the school may use FSA program funds to pay any authorized charges incurred by the student before the notice was received by the school. If a student or parent cancels an authorization to hold excess funds, the funds must be paid directly to the student or parent as soon as possible, but no later than 14 days after the school receives the notice (see example below).

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### Payment After Cancel Authorization Example

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A school may include two or more of the items that require authorization on one statement. Each component and term on the authorization must be conspicuous to the reader, and a student (or parent borrower) must be informed that he or she may refuse to authorize any individual item on the statement.

An authorization must clearly explain how the school will carry out an activity, but it does not need to detail every aspect pertaining to the activity. However, a blanket authorization that only identifies the activities to be performed is not acceptable. An authorization permitting a school to use excess FSA program funds must provide detail that is sufficient to give the student or parent a general idea of what the excess funds would be used to pay. A blanket statement that excess funds would cover any charges is not acceptable.

Unless otherwise specified, a student or parent may authorize a school to carry out the activities for which authorization is provided for the entire period that the student is enrolled at the school. As mentioned above, a student or parent may cancel or modify an authorization at any time.

## USING ELECTRONIC PROCESSES FOR AUTHORIZATIONS AND NOTIFICATIONS

In the belief that automating routine processes preserves scarce institutional resources so that those resources may be used to address individual student needs, the Department continues to encourage and support schools' use of electronic record keeping and communications. For example, **previously we have told you that a school may use an electronic certification to have an FWS supervisor report the hours worked by an FWS student-employee.**

Of course, anytime a school uses an electronic process to record or transmit confidential information or obtain a student's confirmation, acknowledgment or approval, the school must adopt reasonable safeguards against possible fraud and abuse. Reasonable safeguards a school might take include:

- password protection;
- password changes at set intervals;
- access revocation for unsuccessful log-ins;
- user identification and entry-point tracking;
- random audit surveys; and
- security tests of the code access.

### *The Electronic Signatures in Global and National Commerce Act*

The Electronic Signatures in Global and National Commerce Act (E-Sign Act) was enacted on June 30, 2000. The E-Sign Act provides, in part, that a signature, contract, or other record relating to a transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form, or because an electronic signature or electronic record was used in its formation. Thus, with few exceptions, the E-Sign Act permits lenders, guaranty agencies, and schools (program participants) administering the Title IV programs to use electronic signatures and electronic records in place of traditional signatures and records that, under the HEA and underlying regulations, must be provided or maintained in hard-copy format.

The E-Sign Act provides specifically for the creation and retention of electronic records. Therefore, unless a statute or regulation specifically requires a school to provide or maintain a record or document in writing, the school may provide and maintain that record electronically. Similarly, unless a statute or regulation specifically requires a school to obtain a written signature, the school may obtain the signature electronically as long as the electronic process complies with the E-Sign Act and all other applicable laws.

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#### E-Sign cites

15 U.S.C. § 7001

Pub. L. No.106-229

DC-GEN-01-06, May 2001

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#### E-Sign Act

The E-Sign Act provides that the consumer must affirmatively consent to the use of electronic records (and the consumer must not have withdrawn his or her consent to the use of electronic records). Specifically, Section 101(c)(1) of the Act provides that information required by law to be in writing can be made available electronically to a consumer only if the consumer affirmatively consents to receive the information electronically and the provider clearly and conspicuously discloses specified information to the consumer before obtaining his or her consent.

In addition, Section 101(c)(1)(C)(ii) states that a consumer's consent to receive electronic records is valid only if the consumer consents electronically or confirms his or her consent electronically. Finally, the consumer must consent electronically in a manner that reasonably demonstrates the consumer can access the records in the electronic format the provider will use to provide the information that is the subject of the consent.

## EXCESS CASH

### Excess cash cite

34 CFR 668.166

As mentioned in the discussion of the advanced payment method, a school must disburse funds no later than three business days following the date the school receives them. *Excess cash* is any amount of FSA program funds, other than funds received under the just-in-time payment method (see the discussion under the *Just-in-time payment method* earlier in this chapter), that a school does not disburse to students by the end of the third business day. Excess cash must be returned to the Department immediately. However, sometimes a school is prevented from disbursing funds in the required three days because of circumstances outside the school's control. For example, a school may not have been able to disburse funds because of a change in a student's enrollment status, a student's failure to attend classes as scheduled, or a change in a student's award as a result of verification. To take these circumstances into account, under the following circumstances, a school may maintain an excess cash balance for up to seven additional days.

### *Allowable excess cash tolerances*

If during a period of peak enrollment a drawdown of excess cash occurs, a school can maintain the excess cash balance in its federal account if the excess cash balance is less than 3% of the school's total prior-year drawdowns. The school is required to eliminate the excess cash balance within the next seven days by disbursing FSA program funds to students for at least the amount of that excess cash balance.

A period of peak enrollment at a school occurs when at least 25% of the school's students start classes during a given 30-day period. A school determines this percentage for an award year with the following fraction:

$$\frac{\text{Number of students who started classes in the comparable 30-day period in the prior award year}}{\text{Total number of students who started classes during the entire prior award year}}$$

Total number of students who started classes during  
the entire prior award year

For any period other than a period of peak enrollment, the school can maintain the excess cash balance if the excess cash balance is less than 1% of the school's prior-year drawdowns. In this case also, the school is required to eliminate the excess cash balance within the next seven days by disbursing FSA program funds to students for at least the amount of that balance.

Consider a school that did not participate in the Direct Loan Program during the prior year. Such a school does not have prior-year drawdown data. To arrive at an amount to use for prior-year drawdowns, the school should use the total amount of loans guaranteed under the FFEL Program for students attending the school during the prior year.

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The Department reviews schools to determine where excess cash balances have been improperly maintained. The Department will seek to recover from those schools the resulting losses to the government.

Upon a finding that a school has maintained an excess cash balance in excess of allowable tolerances, a school is required to reimburse the Department for the costs that the government incurred in making those excess funds available to the school. Where excess cash balances are disproportionately large considering the size of the school or where they represent a continuing problem with the school's ability to responsibly administer the FSA programs, the Department may initiate a proceeding to fine, limit, suspend, or terminate the school's participation in one or more of the FSA programs. For more on fines and other actions against schools, see chapter 11.

Generally, a check is *issued* when the school releases, distributes, or makes available the check by mailing the check to the student or parent, or by notifying the student or parent expeditiously that the check is available for immediate pickup. However, upon a finding that a school has maintained excess cash balances, the Department considers the school to have issued a check on the date that check cleared the school's bank account, unless the school demonstrates to the satisfaction of the Department that it issued the check to the student shortly after the school wrote that check.

Finally, the Department will assess a school that maintains excess cash balances a liability that is equal to the difference between the earnings those cash balances would have yielded under a Treasury-derived rate and the actual interest earned on those cash balances.

