

# VOLUME 4

## Processing Aid & Managing FSA Funds

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# The MPN & the Stafford/PLUS Loan Process

*The borrower must complete a Master Promissory Note (MPN) to receive a Stafford or PLUS loan. If your school accepts electronic promissory notes, the student can complete the MPN on the Web. The school (or its servicer) certifies (in FFEL) or originates (in DL) the loan, based on the borrower's loan eligibility and specifies the anticipated disbursement dates. Note that a school is required to provide entrance counseling (described in Volume 2) to the student if this is the student's first Stafford loan. Disbursement requirements for FSA funds (including Stafford/PLUS loans) are described in Chapter 3.*

In this chapter, we'll cover the process of making a loan, describing the actions and information required of the student and the school. The order of the elements that we list below may vary from school to school or between the two programs, but each of the elements is required to make a loan.

## STUDENT APPLIES FOR AID & COMPLETES MPN

To receive a Stafford Loan, a student must complete a Free Application for Federal Student Aid (FAFSA) and a Master Promissory Note (MPN). Depending on the lending program, a student may obtain an MPN from a school, a lender, guaranty agency, or the Department. Because an MPN can be used as a separate promissory note for a given loan period or for multiple years of borrowing, the loan amount and loan period are not reported on the MPN.

In the traditional paper process, the MPN might be completed at the school by the student and submitted to the lender or school. In other cases, the school certifies the loan based on the student's acceptance of the aid package, and the lender or the school's servicer sends the MPN to the student for signature. Regardless of the method used, the *Borrowers' Rights and Responsibilities Statement* must be provided to the borrower with the MPN.

Schools may also offer the students the option of completing and signing an electronic MPN. (Note, however, that schools may not *require* a student to use an electronic MPN. A student who wishes to complete a paper MPN must be given that option.) In most cases, the promissory note will be completed through a Web site, and the organization operating the site will be responsible for authenticating the student's electronic signature. In the Direct Loan program, you can notify COD if you want it to accept

### CHAPTER 1 HIGHLIGHTS

#### ■ Student applies

- student must complete a FAFSA and MPN to get a Stafford loan and PLUS if required by school
- option to use MPN for loans over multiple years
- borrower confirmation required for loan disbursements in subsequent years

#### ■ PLUS MPN

- also has multi-year feature

#### ■ School certification/origination

- certify eligibility
- specify amounts and disbursement dates
- submit to lender (FFEL) or COD (Direct Loans)
- notification to borrower of loan disbursement & opportunity to cancel

#### ■ Related information

- Stafford/PLUS award limits, Volume 3, Chapter 4
- Packaging rules, Volume 3, Chapter 6
- Loan Counseling, Volume 2, Chapter 6
- Disbursement rules for FSA funds (including time-frames for Stafford/PLUS disbursements) are described in Chapter 3 of this Volume.

### Electronic signatures

Your borrowers may complete and sign an MPN over the Web, as discussed in two letters issued in May, 2001:

- "Dear Partner" letter GEN-01-06 sets standards for electronic signatures for Stafford and PLUS lenders and guarantors, and for Perkins schools.
- Direct Loan Bulletin DLB 01-09 explains how Direct Loan schools can implement electronic signatures for Stafford promissory notes.

Copies of the Master Promissory Note are provided by lenders, guarantors or the COD center to borrowers and schools. For your reference, sample copies of the MPN and related materials are available on-line :

**FFEL Stafford Loan**

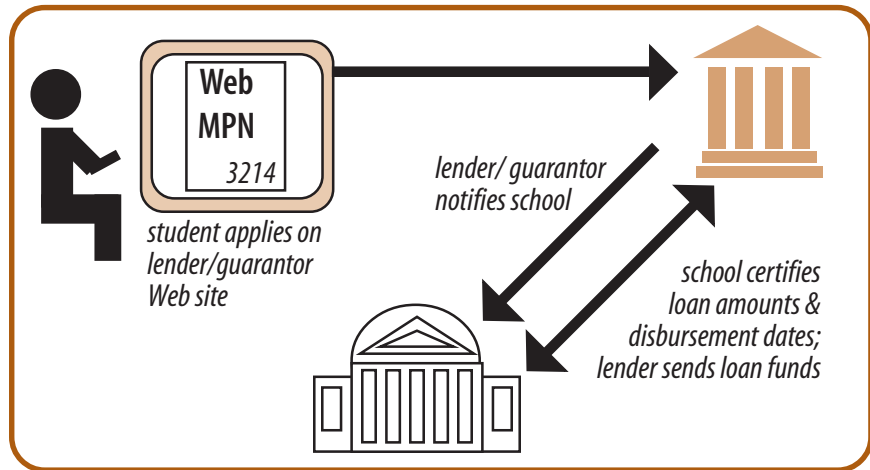
<http://ifap.ed.gov/dpclatters/GEN0207.html>

**Direct Stafford and PLUS loans**

<http://www.ed.gov/DirectLoan/brr.html>

**DL MPN on the Web:**

<http://dlenote.ed.gov>



**Further information about the MPN**

The Master Promissory Note (MPN) was authorized in the Higher Education Amendments of 1998 and developed by ED in cooperation with representatives of the student aid community. MPNs were introduced in the 1999-2000 academic year, but were only *required* for loan periods beginning on or after July 1, 2000, and for any loan certified on or after July 1, 2000.

*References:*

“Dear Colleague” letter GEN-98-25

FFEL regs: 34 CFR 682.401(d)

DL regs: 34 CFR 685.402(f) and definition of “Master Promissory Note” in 34 CFR 685.102.

**\*NEW\* Power of Attorney—Completing the MPN**

A third party with “power of attorney” for the borrower may sign the promissory note if the borrower is unable to sign. Use of a power of attorney when signing an MPN limits the use of the MPN to one loan. If the borrower submits his or her MPN through the school, the school must retain a copy of the original power of attorney in its files. If the note is signed with a power of attorney, the student must authorize the school in writing to credit the loan funds to his or her account at the school.

electronic promissory notes for your school, and whether you want COD to only accept promissory notes for students who have an origination record from your school. Students and parents can log onto the Web and complete the MPN for Direct Stafford and PLUS loans at <http://dlenote.ed.gov>

If your students borrow Stafford or PLUS loans through the FFEL program, you should make arrangements with participating lenders or another intermediary (such as a guarantor Web site or ELM) for the receipt of electronic documents.

In the FFEL program, electronic completion of the MPN does not always include electronic signatures. A school or borrower could require/insist upon “wet” signature even if the MPN is otherwise completed electronically. In the Direct Loan Program, a borrower who wishes to complete an electronic MPN must sign the MPN electronically. If a school or borrower does not want an MPN signed electronically, a paper MPN must be completed.

If the student is completing and signing the promissory note at a Web site, using the Department’s PIN or an alternate method of signature authentication provided by the intermediary’s Web site, the *Borrowers’ Rights and Responsibilities* statement should be incorporated into the electronic process. In most cases, the intermediary operating the Web site will notify you when a student completes the promissory note on-line and designates your school. You may then certify the loan amounts and disbursement dates for the student.

To receive a PLUS loan, a student’s parent must complete a PLUS Application and Master Promissory Note and, if required by the school, a FAFSA. A parent borrower must receive the *Borrowers’ Rights and Responsibilities Statement* with the loan application, but other loan counseling requirements don’t apply to parents.

### Required borrower information on MPN

The MPN collects identifying information for the borrower, including name, permanent address, date of birth, Social Security Number, driver's license number, and two personal non-student adult references with U.S. addresses. If the borrower previously borrowed from a particular lender or the lender uses electronic loan processes, some of this information may be preprinted on the MPN. The borrower must read, sign, *and date* the MPN.

In completing the FFEL MPN, the borrower must also provide the name of a lender. As a convenience, many schools give their students a list of lenders who have made student loans to students at that school. However, the student has the right to choose his or her preferred lender, even if that lender is not one that the school has previously used and a school may not refuse to certify a loan based on a borrower's choice of lender or guarantor. (*Cite: Section 432(m)(1)(B) of the HEA*)

### Multi-year use of the MPN & when a new MPN is required

The MPN, when used as a multi-year document, enables student and parent borrowers to get additional loans without having to sign a new MPN for each academic year (in Direct Loans) or period of enrollment (in FFEL). A multi-year MPN may be used by all domestic schools participating in the FFEL program.

There are several circumstances that would require a borrower who has a multi-year MPN to complete a new MPN. A new MPN is required if the student's lender (for an FFEL) changes, unless the lender changes as a result of a merger or acquisition. A new MPN is also required in certain transfer situations where:

- The student transfers to a school that is not eligible to use, or chooses not to use, the multi-year feature of the MPN.
- The student transfers from an FFEL school to a Direct Loan school, and there's no valid Direct Loan MPN on file at the COD Center. Similarly, a student would need a new MPN if transferring from a Direct Loan to an FFEL

## Declining the use of the multi-year MPN

Schools are not required to use the multi-year feature of the MPN. You may decide that you want some or all of the borrowers at your school sign a new MPN each year. If this is the case, you should notify your lenders. (Also note that lenders have the option to require a new MPN for each loan.) If you're at a Direct Loan school and don't want to use the multi-year feature for ANY of your students, contact the COD School Relations Center. See Direct Loan Bulletins DLB 00-20 and 03-02.

Student loan borrowers may decline to use the multi-year feature of the MPN. Borrowers may also cancel authorization for subsequent loans to be made under an MPN after the first loan is made by notifying the school or lender (for FFEL) in writing. Direct Loan borrowers may send their written notification to the Direct Loan Servicing Center (DLSC) or to their school to forward to COD. The effective date is the date the school, lender, COD, or DLSC receives the written cancellation request. If the borrower cancels the multi-year authorization on a loan that has not been completely disbursed, the school may make remaining disbursements on existing loans, unless the borrower tells the school to cancel or adjust the disbursements. To obtain additional loans the borrower will need to complete a new MPN.

### Using the MPN for multiple loans within an academic year

Note that the MPN may be used to make multiple loans within the same academic year. Even schools that are not authorized or choose not to use the multi-year feature of the MPN can make more than one loan under an MPN within the same academic year.

### Multi-year feature applied to all US schools

In 2003, schools located in the United States that were not previously eligible to use the multi-year feature of the MPN were authorized to begin using it, effective for:

- Any FFEL loan certified by the school on or after March 1, 2003, regardless of the period covered by the loan.
- Any Direct Loan for the 2003-2004 year processed after the 2.0 Release of the Common Origination and Disbursement System. (See Direct Loan Bulletin DLB-03-02).

### Lender of Last Resort

Lenders have some discretion in deciding whether or not to make a loan. If you're unable to help the borrower find a lender willing to make an FFEL loan, the borrower should contact the guaranty agency that serves his or her state of residence for assistance in finding a lender of last resort. See Volume 1, Chapter 6 for more information.

### Consumer information for the borrower

Because students are often first-time borrowers, they need to be fully advised on the costs and responsibilities of borrowing.

Accordingly, the law requires that the borrower receive the following information:

→ At the same time as the MPN, a Borrower's Rights and Responsibilities Statement.

→ At or prior to the first disbursement, a disclosure statement with specific information about that borrower's loans (usually provided by the lender or by COD).

→ For any subsequent loans provided under an existing MPN, a "Plain Language Disclosure (PLD)" provided by the lender or COD. (The PLD is an abbreviated version of the Borrower's Rights and Responsibilities Statement that was provided along with the MPN.)

Some of this information should be reviewed with the borrower as a part of entrance and exit counseling (see Chapter Five).

school. (New MPNs would also be required if the school itself changes from using DL to FFEL or vice versa.)

- A school's lender requests that a school no longer use the multi-year feature of the MPN.

Also, a borrower may request their MPN to be an annual MPN or may request in writing that no additional loans be made using their current multi-year MPN.

In some cases, a new MPN will have to be executed because the maximum period for use of the MPN has expired. At Direct Loan schools, additional loans may no longer be made under an MPN after the earlier of:

- The date COD or the school receives the borrower's written notification that no further loans may be made.
- One year after COD the date the borrower signed the MPN or the date COD receives the MPN, if no disbursement is made during that 12-month period, or
- Ten years after the date the borrower signed the MPN or the date COD receives the MPN. If a portion of a loan is made on or before the 10-year limit, remaining disbursements of that loan can be made.

Although the Direct Loan Program regulations allow the second and third expiration conditions to be based either on the date the borrower signed the MPN or the date COD receives the MPN, COD currently uses the date the MPN is received.

At FFEL Program schools, additional loans may no longer be made under an MPN after the earlier of:

- The date the lender receives the borrower's written notification that no further loans may be made.
- Twelve months after the date the borrower signs the MPN, if no disbursements are made during that period, or
- Ten years from the date the student signs the MPN or the lender receives the MPN. If a portion of a loan is made on or before the 10-year limit based on the signature date, remaining disbursements of that loan can be made.

A crucial step in multi-year use of the MPN is the confirmation process, which ensures that a borrower is interested in continuing to borrow and is equivalent to the borrower signing a new note for each academic year (in Direct Loans) or period of enrollment (in FFEL). The confirmation process will be discussed in the next chapter, along with other notifications and authorizations associated with disbursing FSA funds. Schools (DL) or schools and lenders



## ESTABLISHING A CONFIRMATION PROCESS FOR YOUR STUDENTS

As long as regulatory requirements and the Department's guidelines are met, schools, lenders, and guarantors are free to establish their own confirmation process—perhaps even a process that combines elements of active and passive confirmation and/or a shared responsibility among the school, lender, and/or guarantor. Schools and the lending community have considerable discretion in setting up these processes, including the timing of confirmation provided the goals of the confirmation process are accomplished.

For example, confirmation could take place when students apply for aid, when aid is packaged, when loan funds are delivered or disbursed, or at some other appropriate time. The confirmation process could cover the entire loan for the academic year or loan period or, instead, could require that the student confirm each loan disbursement. GEN-98-25 provides examples of each of these confirmation approaches.

The most effective processes will likely vary among institutions and participants are encouraged to use and test various technologies in this process. Some technologies suggested include the Internet, e-mail, card technologies, and voice response.

Generally, schools (in both the Direct Loan and FFEL programs) should use the same confirmation process(es) for all borrowers. However, in some cases a school may want to establish more than one confirmation process in order to accommodate existing administrative procedures, or because the school believes that it can best inform borrowers of their loan obligations if it uses different confirmation processes for different groups of students.

For example, if a school has a policy that requires undergraduates (but not graduate students) to participate in individual counseling sessions before they receive financial aid, it would be reasonable to use the individual counseling sessions to meet the confirmation requirement for undergraduate borrowers, and to establish a different confirmation process for graduate student borrowers.

Regardless of the process(es) used, schools and FFEL lenders must document their confirmation procedures. A school (and lenders in the the FFEL Program) must retain a description of the process(es) in effect for each academic year in which it makes second or subsequent loans under MPNs. The documentation of the process may be kept in paper or electronic format and need not be kept in individual borrower files. The documentation must be kept indefinitely, because it must be submitted to the Department, upon request, if a borrower challenges the enforceability of a loan.

We recommend that schools include a description of the confirmation process in their student consumer information just as they do for other school policies, such as refunds and academic progress.

(FFEL) must develop and document a confirmation process to ensure that the borrower wants subsequent loans. The confirmation process may be designed to be part of the required notices and disclosures that already exist, or it may be separate and supplement them.

To ensure student control over the borrowing process, a student must accept, either actively or passively (*i.e.*, through notification), the loan amount offered.

- **Active confirmation**—school does not disburse the loan until the borrower either affirmatively requests or accepts the proposed loan type and amount or requests changes to the proposed loan package.

### **PLUS MPN approval for foreign schools**

Foreign schools must get approval from ED to be able to use the multi-year feature of the PLUS MPN. If the foreign school does not have this approval, the parent will have to sign a new PLUS MPN for each new loan.

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### **PLUS Certification Form (FFEL only)**

The Department has developed a paper *Federal PLUS Loan Information and School Certification* (PLUS Certification form) to be used by FFEL schools that do not complete loan certification electronically. This form was approved as part of the PLUS MPN documents package and is printed and distributed by lenders and guaranty agencies.

The PLUS Certification form includes a Borrower (Parent) and Student Information section. If you elect to secure the loan information and initiate the process, you may send the Certification form to the parent for completion of the borrower/student information. Alternatively, if the lender or guarantor secures this information, the borrower/student section would be pre-filled and you would only secure the parent's signature and provide the school certification data.

- **Passive confirmation**—school does not disburse the loan until the borrower is notified of the proposed loan package and the time given to the borrower to respond has elapsed. (The notification can come from the school, lender, and/or guarantor.) The borrower only needs to take action if he or she wants to decline the loan or make adjustments to the type or amount of the loan.

For example, your school's award letter may be used as part of either an active or passive confirmation process. For active confirmation, the student would be asked to confirm the loan amount offered by responding to your school's offer. For passive confirmation, the student would be asked to respond only if he or she wanted to cancel or reduce the loan amount offered.

### **PLUS MPN**

You *must* use the PLUS MPN for any loan you certify on or after July 1, 2004, or for any loan period that begins on or after that date. Paper copies of the PLUS MPN and the Borrower Disclosure Statement—for those parents who won't be filing electronically—will be provided by the lender in the FFEL Program. For further information on the implementation of the FFEL PLUS MPN, see GEN 03-03, for Direct Loans DLB-03-07.

At U.S. domestic schools, the parent may obtain additional loans for the same dependent student based on the original MPN for up to 10 years after the date the parent first signed it. The borrower must receive a Plain Language Disclosure for each subsequent loan. The lender may provide the Plain Language Disclosure separately, or along with the initial disclosure for each loan.

A separate PLUS MPN is required for each dependent student, or if both parents want to borrow individually on behalf of the student under the same conditions discussed for the Stafford Loan MPN. A new PLUS MPN would also be required under the same conditions discussed for the Stafford Loan MPN.

### ***PLUS certification specifying amount to be borrowed***

Because the PLUS amounts the parent may borrow can be certified up to the student's cost of attendance minus other financial aid for the loan period, it's especially important that the parent specify the amount that he or she wants to borrow. A PLUS loan may not be made for more than the amount the parent requests.

Your school can collect this information before certifying the loan using various means such as the PLUS Certification form (see sidebar), a parent response section on your financial aid award letter, a separate PLUS form, documented telephone or electronic requests, or other means. You may also make arrangements with FFEL lenders for them to collect this information before approving the loan. Whether your school or the lender collects the information, you must establish and document how the parent's loan amount request will be



collected. You (or the lender) also must maintain a record of any requests by the parent (in writing, by phone, or electronically) for any adjustment to the loan amount.

If you are eligible to use the multi-year PLUS MPN, the parent's loan request for subsequent years is sufficient documentation to make additional loans—there is no separate confirmation process for PLUS loans—but the parent's loan amount request must be secured for each loan.

### **Adverse credit history & use of endorser**

To borrow a PLUS loan, the parent applicant must not have adverse credit. Adverse credit is defined in the regulations as the applicant being 90 days or more delinquent on a debt or having been subject in the last five years to a default determination, bankruptcy discharge, foreclosure, repossession, tax lien, wage garnishment, or write-off of an FSA debt. The absence of any credit history is not considered adverse credit. FFEL lenders may establish more restrictive credit standards for determining adverse credit.

When determining whether the parent is ineligible for a PLUS loan based on adverse credit history, the lender, or Department, for Direct Loans, must obtain a credit report on the parent from at least one national credit bureau. The report must be obtained within a timeframe reasonably related to the loan period, to ensure an accurate determination of adverse credit. If the parent borrower requests additional funds for an existing loan period (resulting in a loan amount adjustment, not a new loan), the lender is not required to obtain a new credit report, but may elect to do so.

If the parent borrower has an adverse credit history, the applicant has the option of receiving a PLUS loan using a creditworthy endorser. If an endorser will be used, a separate Endorser Addendum is required for each PLUS Loan. Any loan for which an endorser is required must be made under a new PLUS MPN, with a new Endorser Addendum, because the endorser is liable only for the specific loan or loans he or she has agreed to endorse. The Endorser Addendum continues to include the requested loan amount. Any increase in the requested loan amount by the parent borrower must be approved by the Endorser and requires a new MPN and Endorser Addendum.

## **SCHOOL CERTIFIES/ORIGINATES THE LOAN**

The school's primary responsibilities in the loan application process are ensure the completeness and accuracy of the MPN based on information it has available to it if the MPN is initiated or received by the school and to certify that the student is eligible for the loan amounts requested based on annual and aggregate loan limits. If your school initiates or receives the MPN, you must also ensure the completeness and accuracy of the MPN based on the information available to your school. In Direct Loans, this information is part of the loan origination record sent electronically to COD. An FFEL school may submit the certification to the lender

### **School Responsibilities**

Certifying an FFEL:  
see 34 CFR 682.603  
Originating a Direct Loan:  
see 34 CFR 685.301

### **Common Origination & Disbursement (COD)**

Beginning with the 2003-04 award year, all schools using EDExpress to submit their Pell Grant and Direct Loan disbursement records are Full Participants in COD.

→ Full participants should use Volume 2 of the *COD Technical Reference* for Pell and DL processing procedures. (The separate Pell Grant and Direct Loan Technical References have been discontinued.)

→ Phase-in participants should use the following volumes in the *COD Technical Reference*:

- Volume 3—Pell Grants
- Volume 4—Direct Loans
- Volume 5—Combination Schools

Regardless of your level of participation, your origination and disbursement records for 02-03 and 03-04 can be viewed on-line at:

→ <http://cod.ed.gov>

For technical support on COD records, you may e-mail:

→ [codsupport@acs-inc.com](mailto:codsupport@acs-inc.com)

Or, you may call:

1-800-4-P-GRANT (Pell)

1-800-848-0978 (Direct Loans)

### **Additional eligibility for dependent students whose parents cannot borrow PLUS**

If a dependent student's parents have not been able to borrow a PLUS loan, the student may be eligible for higher unsubsidized Stafford borrowing limits. See Volume 3, Chapter 4.

## School checklist for loan certification

### For all Stafford and PLUS Loan applications, the school must:

- confirm that the student (and parent) meet the definition of eligible borrower,
- determine the student's enrollment status and satisfactory academic progress,
- review the NSLDS information on the ISIR to ensure that the student (or both the student and parent in the case of a PLUS Loan) is not in default on any FSA loan and does not owe a refund on any FSA grant or scholarship and will not exceed the annual or aggregate loan limits applicable to the borrower,
- ensure that the amount of the loan, in combination with other aid, will not exceed the student's financial need or the annual or aggregate loan limit.

### For a Stafford Loan, the school must also:

- determine the student's Pell Grant eligibility (for a subsidized Stafford Loan, the need analysis must use an official EFC calculated by the Department to determine the student's financial need), and if eligible, include the grant in the student's aid package,
- for an unsubsidized Stafford Loan, first determine the student's eligibility for a subsidized Stafford Loan,
- prorate Stafford Loans for programs of study that are shorter than an academic year and for programs in which the remaining period of study is less than an academic year in length, and
- ensure that the loan disbursement dates meet the cash management and disbursement requirements for Stafford Loans.

### Certification Options During Verification

If you have reason to believe that the information included on the FAFSA is inaccurate, you may not certify, originate, or disburse a Stafford Loan for the student until he or she verifies or corrects the information.

If you have no reason to believe that the information included on an application is inaccurate prior to verification, you have the option of certifying or originating a Stafford Loan, but the loan funds may not be disbursed until verification has been completed. (34 CFR 668.58 Interim disbursements)

### Originating/certifying a loan

FFEL—34 CFR 682.603

Direct Loans—34 CFR 685.301

electronically or on the new paper Federal Stafford Loan School Certification form.

Whether your school uses the MPN as a “single-loan” promissory note or multi-year note, you must provide this certification each time a loan is made under the MPN.

### Certifying eligibility

You must certify that the student or parent is an eligible borrower (see *Volume 1—Student Eligibility*). For PLUS applicants, you must also determine the eligibility of the dependent student on whose behalf the parent is borrowing. The school's certification also includes the student's grade level, loan period and the amounts of the disbursements (using the rules described in *Volume 3, Chapter 4*), as well as the student's enrollment status and anticipated completion/graduation date.

Your school must confirm the student's dependency status when determining whether a parent is eligible to borrow under the PLUS Program or the student is eligible for additional unsubsidized Stafford loan limits. Your school must also confirm the Social Security Number of both student and parent applicants.

For a student who previously attended another college, check the student's financial aid history on NSLDS either when certifying a Stafford Loan or at the time of disbursement to make sure that the student has remaining eligibility under the maximum loan limits. (See the discussion of annual and aggregate loan limits in *Volume 3, Chapter 4*.) For a PLUS Loan, don't certify the application until you have obtained the dependent student's complete financial aid history.

Schools are no longer required to provide need analysis information to the lender. However, you must document the student's cost of attendance, Expected Family Contribution, and estimated financial assistance in the student's file. This information must be made available to the lender, the guarantor, or the Department upon request.

You may not certify a loan for more than:

- the amount the borrower requests,
- the student's unmet financial need (see "Packaging," *Volume 3, Chapter 6*).
- the student's cost of attendance, or
- the borrower's maximum borrowing limit (as discussed in *Volume 3, Chapter 4*)

### Requesting EFT or master check from lender

*Based on 34 CFR 668.167*

**Stafford:** A school may not request a lender to provide it with Stafford loan funds earlier than--  
 → 27 days after the first day of classes of the first payment period for a 1st-year, 1st-time Stafford borrower, or  
 → 13 days before the 1st day of classes for any subsequent payment period for a 1st-year, 1st-time Stafford Loan Program borrower or for any payment period for all other Stafford borrowers.

**PLUS:** A school may not request a lender to provide it with PLUS loan funds earlier than 13 days before the first day of classes for any payment period.

## Additional Unsubsidized Stafford

Dependent students whose parents are unable to borrow PLUS loans due to adverse credit or other exceptional circumstances may receive additional unsubsidized Stafford loan amounts at the same level as independent undergraduate students. The increased loan amounts do not substitute entirely for the amount a parent may borrow under the Plus program, which may be up to the difference between COA and EFA. As a result, you should examine the parent's ability to borrow a PLUS loan using an endorser who does not have an adverse credit history before certifying or originating additional unsubsidized loan amounts for the dependent student.

Before certifying or originating a loan for increased loan amounts, you must document the basis of the dependent student's eligibility. Some basic guidelines for making this determination include the following:

- The parent's unwillingness to borrow a PLUS does not make the dependent student eligible.
- The aid administrator's belief that a parent should not borrow a PLUS does not make the dependent student eligible.
- Only one parent must apply for a PLUS and be denied based on adverse credit. However, if both parents apply independently and one is approved and the other denied, the dependent student is not eligible for the increased loan amounts.
- The parent's denial of a PLUS loan based on adverse credit in one year does not support the dependent's eligibility in subsequent years.
- The dependent student may become eligible at any time during an academic year if a parent has first been approved and then later denied a PLUS based on a subsequent application. Under these circumstances, any previous PLUS funds received during the same period of enrollment are treated as estimated financial assistance in determining the student's remaining eligibility for additional unsubsidized loan amounts.

The dependent student may also be eligible for increased unsubsidized loan amounts if you determine and document that other exceptional circumstances exist that will prevent a parent from borrowing a PLUS loan. The regulations provide examples, but not an exhaustive list, of the exceptional circumstances that might be used to document the dependent student's eligibility:

- The parent is incarcerated and therefore ineligible to borrow.
- The parent's whereabouts are unknown.
- The parent's income is limited to public assistance or disability benefits and,
  - in the DL Program, you have examined the family financial information and documented the parent's likely inability to repay the PLUS loan due to an existing debt burden or the parent's expected income-to-debt ratio, or
  - in the FFEL Program, you have evidence that a lender that makes loans to students and parents of students at your school has denied a PLUS loan or will not make a PLUS loan to a parent under its lending policy due to the parent's existing debt burden, income-to-debt ratio, likely inability to repay, or other credit standards or factors the lender has elected to adopt as provided for under the regulations.

If a dependent student is determined to be eligible for additional unsubsidized loan amounts under exceptional circumstances, you must re-examine and document that these exceptional circumstances continue to apply before certifying or originating additional unsubsidized loan amounts for the dependent in a subsequent year.

### **Blanket Agreements for Guaranty Approval**

A lender must receive guaranty agency approval for an FFEL in order for the lender to disburse the loan and, if applicable, be eligible for payment of federal interest benefits. Under the 1998 Amendments, a guaranty agency may offer eligible lenders participating in the agency's guaranty program a blanket guaranty that permits the lender to make loans without receiving prior approval from the guaranty agency for individual loans.

See Section 428(n) of the Higher Education Act of 1965, as amended

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### **Requesting check from lender requiring endorsement of the borrower**

*Based on 34 CFR 668.167*

**Stafford:** A school may not request a lender to provide it with Stafford loan funds earlier than:

→ The first day of classes of the first payment period for a 1st-year, 1st-time Stafford borrower or

→ 30 days before the first day of classes for any subsequent payment period for a 1st-year, 1st-time Stafford borrower or for any payment period for all other Stafford borrowers

**PLUS:** A school may not request a lender to provide it with PLUS loan funds earlier than 30 days before the first day of classes for any payment period.

If a subsidized Stafford Loan applicant has been selected for verification, you may wait until verification has been completed to certify the Stafford Loan application, or you may certify the application if there is no information which conflicts with that provided by the applicant. If you choose to certify the application without waiting for verification, you may not credit the loan funds to the student's account or pay the student directly until verification has been completed.

On a case-by-case basis, you may refuse to certify the loan application for a borrower. Similarly, you may certify a loan for an amount less than the borrower's maximum eligibility. However, you must ensure that these decisions are made on a case-by-case basis, and don't constitute a pattern or practice that denies access to borrowers because of race, sex, color, income, religion, national origin, age, handicapped status, or selection of a particular lender or guarantor. Also note that your school cannot engage in a practice of certifying Stafford loans only in the amount needed to cover the school charges, or to limit unsubsidized Stafford borrowing by independent students.

When you make a decision not to certify a loan or to reduce the amount of the loan, you must document the reasons and provide the explanation to the student in writing.

A financial aid administrator should be aware of the responsibility incurred in certifying a loan. *The school, not the lender, determines the student's or parent's eligibility for a Stafford or PLUS Loan.* (An eligible foreign school is also responsible for determining eligibility, although such schools may contract with a guaranty agency or a consultant for assistance.) Schools that certify loans for ineligible students, or for loan amounts that exceed loan limits or the student's need, are subject to administrative actions such as a fine, limitation, suspension, and termination, as well as liabilities such as repayment to the government of interest and special allowance costs it has paid on the ineligible loans.

### **Submission of award & disbursement data (Direct Loans)**

The COD process in Direct Loans includes the steps that a school would take to certify a loan in FFEL—in particular, scheduling the amounts to be disbursed. Depending upon the school's level of origination, the remaining parts of the loan process are handled either by the school or by COD. The Direct Loan Program provides specific instructions for drawing down funds, so that information will not be duplicated here. We'll discuss FSA disbursement procedures in Chapter 2.

### **Scheduling disbursements with an FFEL lender**

The rules for when loan payments can be disbursed to students are discussed in Chapter 4 of this volume. 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 disburse funds to the student. (In the certification process, the term “disbursement” usually refers to the transfer of funds from the lender to the school, but for purposes of the *Handbook*, we use the term when referring to the school’s payment of funds to the student.)

In keeping with 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 via EFT or master check any sooner than 3 days before the earliest date that it is allowed to pay the funds to the student. If you are requesting a check that requires the endorsement of the borrower, you may not ask the lender to provide the check any sooner than 30 days before it could be disbursed. (See sidebar.)

### ***Lender/guarantor approval (FFEL only)***

The lender or guarantor will match the information included by the school on the certification (electronic or paper) to the MPN by comparing the student’s identifying information. The lender or guarantor should check the permanent address information on the MPN to see if it has changed. The school must supply the student’s cost of attendance, EFC, and estimated financial assistance to the lender or guarantor upon request.

The lender will also check to make sure that the school is eligible to use the multi-year feature of the MPN. If the student transfers to an eligible foreign school that is not eligible to participate in the multi-year process and continues to use the same lender, the lender is responsible for obtaining a new signed MPN for each loan at the new school.

An FFEL lender is prohibited from discriminating against an applicant on the basis of race, national origin, religion, sex, marital status, age, or disabled status. However, a lender may decline to make loans to students who do not meet the lender’s credit standards or to students at a particular school because of the school’s default rate, or to students enrolled in a particular program of study. A lender may decline to make FFELs for less than a specified amount; for example, a lender could refuse to make a loan for less than \$500.

Once guaranty agency approval is obtained and the lender has determined that it has an active MPN for the borrower, the lender will send Stafford loan funds to your school in the appropriate amount for each disbursement to the student or parent. At the request of the borrower, the lender will send the funds directly to the student if he or she is enrolled in a foreign school. For a PLUS, loan funds are sent in at least two disbursements to the school by EFT or by a check made copayable to the school and the parent borrower.

## Review of the Stafford MPN Process

The process for completing the MPN for a Stafford Loan and making the initial loan includes the following elements, though the process may be a bit different for the FFEL and Direct Loan Programs and some school and lender procedures may be in a slightly different order.

For instance, as shown in the beginning of this chapter, a student might initiate the loan process by completing the FAFSA and the MPN. In some cases, the lender would then notify the school of the loan request and the amount requested and the school would certify/originate the loan if the student is eligible.

### **Student Applies for Aid.**

The student fills out the FAFSA (or a renewal FAFSA) and an MPN for the initial loan.

➤ The Borrower's Rights and Responsibilities Statement must be given to the borrower with the MPN.

### **School Determines Eligibility and Loan Amount.**

The school confirms the student's eligibility for federal student aid, determines the loan period and loan amount, and packages the loan(s) requested. (In a traditional setting, the packaging process would be completed and an award letter sent to the student *before* the student completes the MPN.)

### **Certification/Origination.**

For FFEL loans, the school certifies the student's loan eligibility. For Direct Loans, the school originates the loan

➤ In the FFEL Program, the loan is approved by the lender or guaranty agency.

➤ In the Direct Loan Program, the school submits an origination record to COD and receives a response from COD.

### **Disclosure.**

Either before or at the time of the first disbursement, the borrower must be given a disclosure statement with specific information about the type(s) of loans the borrower is getting, anticipated disbursement amount(s), anticipated disbursement date(s), and instructions on how to cancel the loan(s). (The disclosure is often provided by the lender or COD.)

First-time borrowers must complete entrance counseling before payment can be made. (*See Volume 2, Chapter 6*)

### **Disbursement to the Borrower.**

The school (after checking that the borrower is still eligible) disburses the loan funds to the student's account or directly to the borrower, and notifies the borrower of each disbursement. (*See Chapter 2 of this Volume*)

### **✧ Making Subsequent Loans.**

If the MPN is used as a multi-year note, a new MPN is not required for subsequent loans. However, your school must use an active or passive confirmation process for subsequent loans, and the borrower must receive a Plain Language Disclosure, at or prior to the disbursement of any subsequent loans provided under an existing MPN. (The Plain Language Disclosure is usually sent to the borrower by the lender or the Direct Loan Origination Center.) If the MPN is not used as a multi-year note, the borrower completes a new MPN for each subsequent loan.

Copies of the Master Promissory Note are provided by lenders, guarantors or the COD center to borrowers and schools. For your reference, sample copies of the MPN and related materials are available on-line :

FFEL Stafford Loan MPN <http://ifap.ed.gov/dpclatters/GEN0207.html>

Direct Stafford Loan MPN <http://www.ed.gov/DirectLoan/brr.html>



# Disbursing FSA Funds

*These rules apply to the following programs: Pell Grant, FSEOG, Perkins Loan, Direct Loan, FFEL. We have indicated when a rule applies to FWS. While the calculations and the award process vary considerably for each of the FSA programs, there is more uniformity in the rules for disbursing funds. This chapter will discuss the rules for crediting FSA funds to the student's account and making direct disbursements to the student or to the parent (PLUS), with provisions for early disbursements, delayed disbursements, and late disbursements.*

## NOTIFICATION OF DISBURSEMENT

A school must notify a student of the amount of funds the student and his or her parent can expect to receive from each FSA program, including FWS, and how and when those funds will be disbursed. This notification must be sent *before* the disbursement is made. If the funds include a Stafford Loan (whether DL or FFEL), the notice must indicate which funds are from subsidized loans and which are from unsubsidized loans. Because the actual disbursements received by a student may differ slightly from the amount expected by the school (due to loan fees and rounding differences), you may include the gross amount of the loan disbursement or a close approximation of the net disbursement amount.

A school must also notify the student or parent in writing or electronically when Perkins, Stafford, or PLUS loan funds are being credited to a student's account. This notification must be sent no earlier than 30 days before and no later than 30 days after crediting the student's account. The notification must include the date and amount of the disbursement.

If your school received the FFEL loan funds from a lender through EFT payment or master check, the notice to the student or parent must describe the right of the student or parent borrower to cancel all or a portion of the loan. The notice must also explain 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.

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

## CHAPTER 2 HIGHLIGHTS:

### ■ Method of disbursement

- ➔ credit to student's account (school may hold credit balance if authorized)
- ➔ disbursement directly to student or parent

### ■ Disbursement rules

- ➔ most FSA disbursements must be made by payment period or at the beginning and calendar midpoint of loan period
- ➔ FWS students must be paid at least once a month
- ➔ funds may be disbursed up to 10 days before classes begin (in most cases)
- ➔ disbursements to 1st-time, 1st-year, Stafford borrowers must be delayed 30 days (in most cases)
- ➔ students in nonterm programs and certain nonstandard term programs must successfully complete coursework requirements for subsequent Pell and Stafford/PLUS disbursements
- ➔ school may make unequal FSEOG/Perkins disbursements to meet uneven costs
- ➔ school must report Perkins disbursements to at least one credit bureau
- ➔ under certain conditions, late disbursements must be made to students

### ■ Prompt disbursement rules

- ➔ usually 3 day time-frame for school to disburse to student/parent after receiving funds
- ➔ Exception: Stafford/PLUS funds can be held for up to 13 days if student is expected to regain eligibility
- ➔ Exception: may hold Stafford/PLUS 45 days for verification

### Related topics

- ➔ See Volume 5 for information on Post-Withdrawal Disbursements
- ➔ See Volume 5 for discussion of payment periods if student re-enters a program after withdrawing.

**Notifications & authorizations**

34 CFR 668.165

**Borrower’s option to cancel all or a portion of a disbursement**

A borrower in repayment status on any loan must provide written instructions to prevent a payment made within 120 days of disbursement from being applied to the debt under the regular application of payment rules in Sec. 682.209 or Sec. 685.211. A borrower who is not in repayment status on any loan must provide written instructions to prevent a payment made within 120 days of a disbursement from being applied as a cancellation of all or part of the loan.

General Provisions §668.165(a)(4)  
 FFEL §682.202(c)(7)(i); DL, §685.202(c)(4)  
 (Also discussed in preamble to Federal Register of 11/28/97, pages 63429-30)

**Borrower confirmation via e-mail**

If you are notifying the student of the next loan disbursement by electronic mail or other electronic means, this is considered the equivalent of notification by regular mail—you are not required to confirm receipt of the electronic notice. However, you are encouraged to follow up on any electronic notice for which you receive an “undeliverable” message.

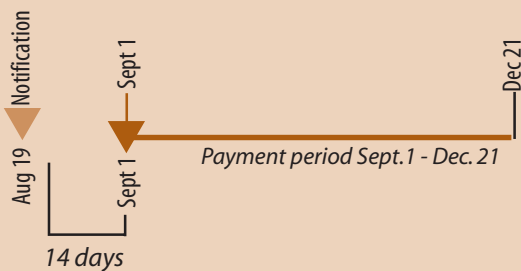
Your school may not use an in-person or telephonic conversation as the sole means of notification, because these are not adequate and verifiable methods of providing notice. However, a school may use in-person and telephone notices *in addition* to those provided in writing.

If the student or parent borrower wishes to cancel all or a portion of a loan, he or she must inform the school. The school must honor a request if it receives the request before the start of the payment period, or if it receives the request within 14 days after it sent the notice to the borrower. If the school receives a student’s or parent’s request for cancellation after these dates, 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.*

When acting upon a loan cancellation request, your school must return the loan proceeds and/or cancel the loan as appropriate. 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, you are encouraged to take an active role in advising the borrower to return the funds already received.

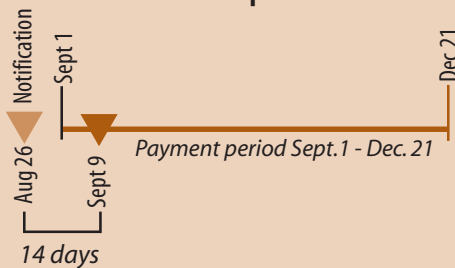
**14-day cancellation period examples**

**Example 1**



In the first example, the school notified the student that the loan was being disbursed a month before the payment period began. The school must accept a loan cancellation request that is received before the payment period begins.

**Example 2**



In the second example, the school did not send the notice until a week before the start of the payment period. Therefore, the school must cancel or reduce the loan if the student makes the request by September 9.

## REQUIRED STUDENT/PARENT AUTHORIZATIONS

Your school must obtain authorization from a student (or parent borrower) before:

- disbursing FSA funds (including Federal Work-Study wages) by EFT to a bank account designated by the student or parent, if this method of disbursement is used,
- using FSA 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,
- holding an FSA credit balance, and
- applying FSA funds to minor prior-year charges.

A school may not require or coerce the student or parent to provide the authorization and must clearly explain to the student or parent how to cancel or modify the authorization. The student or parent may cancel or modify the authorization at any time.

A cancellation or modification is not retroactive—it takes effect on the date that the school receives it from the student or parent. 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 minor prior-year charges, the school may use FSA 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.

A school may include two or more of the items that require authorization in one statement. Each component and term in 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. For instance, an authorization permitting a school to use an FSA credit balance (discussed on the next page) must provide detail that is sufficient to give the student or parent a general idea of what the credit balance would be used to pay. A blanket statement that the credit balance 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.

## Defining the date of disbursement

It is important to define the date of disbursement because several regulatory requirements are based on that date. For instance, you must notify a student of a loan disbursement no sooner than 30 days before the date of disbursement and no later than 30 days after the date of disbursement.

The date of disbursement also determines when the student becomes an FSA recipient and has the rights and responsibilities of a FSA recipient. For example, when FSA loan funds are disbursed to a recipient, the student or parent assumes responsibility for the loan and has the right to cancel the loan.

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

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

When using school funds in place of FSA funds, there are two situations where the FSA disbursement is considered to have taken place on *the earliest day that the student could have received FSA funds* rather than the actual disbursement date:

- If a school credits a student's account with its own funds (prior to receiving FSA funds) earlier than 10 days before the first day of classes of a payment period, it is not counted as an FSA disbursement until the 10th day before the first day of classes (the earliest a school may disburse FSA funds).
- If a Stafford borrower is subject to the 30-day disbursement delay and a school credits the student's account with its own funds (prior to receiving FSA funds) before the 30 days have elapsed, this is not counted as an FSA loan disbursement until the 30th day after the beginning of the payment period.

If your 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*), it is not a disbursement. For example, some schools prepare billing statements or invoices showing the estimated amount of FSA funds that students are eligible to receive. These estimated amounts are not FSA disbursements.

## METHOD OF DISBURSEMENT

There are two ways to disburse FSA funds: by crediting the student's account for allowable charges at your school, or by disbursing to the student or parent directly.

### ***Credit to the student's account***

When a school disburses FSA program funds to a student by crediting a student's account, it may do so only for allowable charges.

Allowable charges always include current charges for tuition and fees and room and board (if the student contracts with the school). You may pay other current charges that a student has incurred for educationally-related activities if you obtain the student's *written authorization* to pay those charges, or the parent's written authorization, in the case of PLUS loan funds. If a charge does not meet the definition of tuition and fees as described in *Volume 3, Chapter 2* (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.

In general, FSA funds may only be used to pay for the student's costs for the period for which the funds are provided. However, you may credit a student's account to pay minor prior-year school charges if you get the student's or parent's written authorization to pay the prior-year charges. If the prior-year charges are \$100 or more, you must determine that disbursement would not prevent the student from paying for his or her current educational expenses (including both school charges and any other costs of attendance). Note, however, that Direct Loan funds credited to a student's account must first be used to pay for current charges.

FSA funds may *not* be used to repay a student's loan. Loan disbursements are not part of the cost of attendance for the period of enrollment.

### ***Direct disbursement to the student***

You may also disburse FSA funds directly to the student or parent. Most schools choose to first credit FSA funds to the student's account at the school, and then disburse the credit balance to the student or parent.

There are four ways that a school may disburse FSA funds directly 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.

## Method of disbursement cites

- ➔ Credit to student's account: 34 CFR 668.164(d)
- ➔ Direct disbursements: 34 CFR 668.164(c)
- ➔ Releasing a Pell check: 34 CFR 690.78(c)
- ➔ Direct Loans credited to student charges before other costs: CFR 34 668.164(d)(3)
- ➔ Cost of attendance: HEA §472 and 20 US Code 1087ll
- ➔ Prior-year charges: 34 CFR 668.164(d)

## A note on terminology ...

Traditionally, the FFEL regulations have referred to the lender's "disbursement" of funds to the school, and the school's "delivery of the loan proceeds" to the student. More recently, the Cash Management regulations have used the term "disbursement" to refer to the payment of FSA funds to the student or parent, including the payment of loan funds. In this chapter, we will use "disbursement" in the sense of the Cash Management regulations, that is, payment to the borrower.

## 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 to comply with a statutory or regulatory requirement, the origination fee and insurance premium are reduced in proportion to the amount returned. If the student borrower 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, see DLB-04-07.

- disbursing to the student in *cash*, provided that your school obtains a signed receipt from the student or parent, or
- *releasing a check* sent by a FFEL lender.

***Delivery of FSA funds must be cost-free***

Schools are prohibited from charging students a fee for delivering 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.



## CREDIT BALANCES

An FSA credit balance occurs whenever your school credits FSA program funds to a student's account and the total amount of those FSA funds exceeds the student's allowable charges.

### Paying credit balances

If FSA disbursements to the student's account at the school created an FSA credit balance, you must pay the credit balance directly to the student or parent 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, 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.

The law requires that any excess PLUS Loan funds be returned to the parent. Therefore, if PLUS Loan funds create a credit balance, the credit balance would have to be given to the parent. However, the parent may authorize your school (in writing) to transfer the proceeds of a PLUS Loan to a student directly or to a bank account in the student's name.

You have the latitude to determine which FSA program funds create an FSA credit balance. 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.

Please see Volume 5 for a discussion of credit balances when a student withdraws.

## Credit balances

Credit balance: 34 CFR 668.164(e)

Note: FSA regulations refer to the amount of aid that exceeds the allowable charges that can be paid as a "credit balance." (School administrators sometimes refer to this as a "refund;" however, it is not the same thing as a refund under the school's refund policy or a Post-Withdrawal Disbursement given to a student under the Return of Title IV Funds rules.)

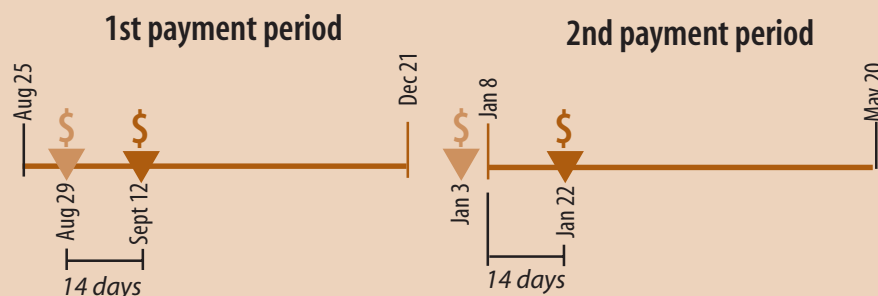
## Credit balances under \$1

A school is not required to disburse a credit balance that is less than \$1.00.

## ED may prohibit holding credit balance

If the Department has placed a school on reimbursement or determines that the school has failed to meet financial responsibility standards, it may choose to prohibit the school from holding a credit balance for any student.

### 14-day time-frame for paying credit balances



In the first payment period above, the school disburses FSA funds to incoming students after the students have started classes, so it has 14 days from that date to pay the credit balance to the student (or parent, in the case of PLUS).

In the second payment period, the school disburses FSA funds before classes start, so the school has 14 days from the beginning of classes to pay the credit balance.

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### **FSA credit balance example**

An FSA credit balance occurs only if the total amount of FSA program funds exceeds allowable charges. For example, Ms. Inu Nagar enrolls at Eaglewood Technical Institute as a commuter student, and her total allowable charges for the fall term amount to \$1,500. ETI credits \$2,000 to her account, comprising \$1,000 in FSEOG, \$500 in private scholarship funds, and \$500 in Pell Grant funds.

Although there is an excess of \$500 on the account, this does not constitute an FSA credit balance because the total amount of FSA funds (\$1,500) does not by itself exceed the amount of allowable charges (\$1,500).

If, in this example, ETI credited \$600 of Pell Grant funds, rather than \$500, an FSA credit balance of \$100 would be created because the total FSA 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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### **Escheating prohibited—unclaimed funds**

In the case of unclaimed disbursements, your school must ensure that FSA funds do not escheat to the state or revert to the school or any other party. For instance, if a check containing FSA funds is not cashed by the expiration date, the FSA funds must be restored to the applicable FSA program(s).

A school must have a process through which it identifies a credit balance that remains on a student's account beyond the payment deadline or undelivered to the student (or parent, if applicable) and returns those funds to the FSA programs on behalf of the student. The search for the student should end and the refund/return to the Department should be completed prior to the date the funds would otherwise escheat, but no later than a few days after a check to the student would cease to be negotiable (usually 180 days).

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### **Power of attorney**

Perkins: 34 CFR 674.16(h)

FFEL: 34 CFR 682.207(b)(1)(v)(C)(2) and (D)(2)

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### **Undelivered Perkins funds**

If a portion of the undelivered credit balance consists of Perkins funds, the school must reimburse its Perkins Loan fund for that amount and report those funds as other income on line 24, Part III, Section A of the FISAP. (See Chapter 4 for further discussion.)

### ***Holding credit balances***

A school is permitted to hold credit balances if it obtains a voluntary authorization from the student (or parent, in the case of PLUS). If your school has the authorization to hold the credit balance, it must identify the amount of funds that it holds for the student or parent in a subsidiary ledger account designated for that purpose. Your school also must maintain, at all times, cash in its bank account at least equal to the amount that it holds for students.

Because FSA funds are awarded to students to pay current year charges, notwithstanding any authorization from the student or parent, you must pay:

- any remaining balance on FSA 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 your school has lost contact with a student who is due a credit balance, you must use all reasonable means to locate the student. If you still can't find the student, your school must return the credit balance to the appropriate FSA program(s) and/or lender. The FSA regulations do not set specific rules for determining which funds created a credit balance. However, we encourage schools to return FSA 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.

### **POWER OF ATTORNEY**

#### ***Power of attorney in disbursing FWS and Perkins***

A school may not obtain a student's power of attorney to authorize FWS disbursements unless the Department has granted prior approval (contact your Case Team). Your school must be able to demonstrate that there is no one else (such as a relative, landlord, or member of the clergy, for example) who could act on behalf of the student.

Similarly, a school official may not use a student's power of attorney to endorse any Perkins Loan disbursement check or to sign for any Perkins loan advance unless the Department has granted prior approval. Approval may be granted only if:

- the student is not available to sign the promissory note and there is no one else (such as a relative, landlord, or member of the clergy) who could act on behalf of the student,
- the school shows that the funds cannot be directly deposited or electronically transferred,
- the power of attorney is not granted to a school official or any other official who has an interest in the loan, and

- the power of attorney meets all legal requirements under the law of the state in which the school is located and the school retains the original document granting power of attorney in its files.

### **Power of attorney for foreign study (Stafford/PLUS)**

If a student who is enrolled at a foreign school requests it, the lender may disburse Stafford and PLUS funds directly to an eligible foreign school, or to a domestic (home) school in the case of a study-abroad arrangement. The borrower (the student or the parent, in the case of PLUS) must provide power-of-attorney to an individual not affiliated with the school to endorse the check or complete an electronic funds transfer authorization.

## **CHECKING ELIGIBILITY AT THE TIME OF DISBURSEMENT**

Before disbursing FSA funds, a school must first make sure that the student is eligible to receive them. Note that a student may have been making satisfactory academic progress when award letters were mailed in the spring term, but may no longer be making progress when he or she comes to the business office for to receive the disbursement at the beginning of the fall term. You must make sure the student still meets the eligibility requirements for the FSA funds, and that the appropriate documentation is kept.

In the case of Stafford and PLUS loans, you've already certified that the student is eligible when you sent the loan information to the lender (see Chapter 1). However, you must also ensure that the student has maintained continuous eligibility before you disburse the loan. The most common change that would make a student ineligible for a Stafford or PLUS disbursement is if the student has dropped below half time, so it is important that your office have a system to check the student's enrollment status at the time of disbursement.

If the student has dropped below half time temporarily, you may still make a Stafford or PLUS disbursement after the student resumes at least half-time enrollment. However, you must make sure that the student continues to qualify for the entire amount of the loan—the change in enrollment may have resulted in a significantly lower cost of attendance. The aid administrator must document this review in the student's file.

Also remember that your school cannot retain the loan funds indefinitely, as we'll discuss at the end of this chapter.

## **Interim disbursements for verification**

A school can make an interim disbursement to a student who is selected for verification (including a student selected for verification by the school rather than the CPS). The school doesn't need to have a valid output document to make such a disbursement. See the *Application and Verification Guide*, Chapter 3, for more details.

## **Disbursements to students on leave of absence**

A school may disburse Pell, FSEOG, Perkins funds to a student on a leave of absence. Because FSA credit balance funds are funds that have already been disbursed, a school may also pay an FSA credit balance to a student on a leave of absence.

However, a school must not disburse FFEL/Direct funds to a student on a leave of absence.

## **Liability for incorrect payments**

An individual is liable for any incorrect payments made to the student due to school error. A school official is subject to a \$10,000 fine, a prison sentence, or both if he or she knowingly makes false or misleading statements.

## Disbursement timing citations

- Disbursement by payment period:  
34 CFR 668.164(b)  
HEA § 428G(a)
- Disbursement by calendar midpoint:  
34 CFR 682.604(c)
- Early disbursements: 34 CFR 668.164(f)
- Returning Pell, Perkins, or FSEOG for a student who doesn't begin attending classes:  
34 CFR 668.21
- Returning Stafford & PLUS for a student who doesn't register:  
FFEL : 34 CFR 682.604(d)(3) and (4)  
DL: 34 CFR 682.303(b)(3)
- 30-day delay for 1st-time Stafford/PLUS borrowers  
FFEL : 34 CFR 682.604(c)(5)  
DL: 34 CFR 685.303(b)(4)

## Foreign study exception to 30-day Stafford delay

**\*Reminder\*** A loan disbursement can be made to a first-time, first-year borrower within the normal time frame (without waiting 30 days) if the borrower is attending an eligible foreign school, or if the borrower is in a study-abroad program and the home school in the U.S. had a Stafford loan default rate less than 5% (in the most recent fiscal year for which data was available).

The exception to the delayed disbursement requirement for domestic study expired on September 30, 2002. (GEN 02-06.)

For more information, please refer to the **Cohort Default Rate Guide** on the IFAP Web site. <http://ifap.ed.gov/drmaterials/FinalCDRG.html>

## TIMING OF DISBURSEMENTS

We've already described how disbursements are calculated in Volume 3; now we'll discuss the timing of disbursements. Schools disburse FSA program funds by payment period or at the beginning and calendar mid-point of the loan period. Typically, the amounts that you award to a student for an academic year are divided into lesser amounts among the payment periods or other subdivisions.

The timing of disbursements is especially important for Pell Grant and Stafford/PLUS loan funds, because you must schedule disbursement dates with the Department and/or private lenders. (See Chapters 1 and 2 for information on reporting Pell disbursements to COD and certifying/originating a Stafford/PLUS loan.)

### *Basic rules for early & delayed disbursements*

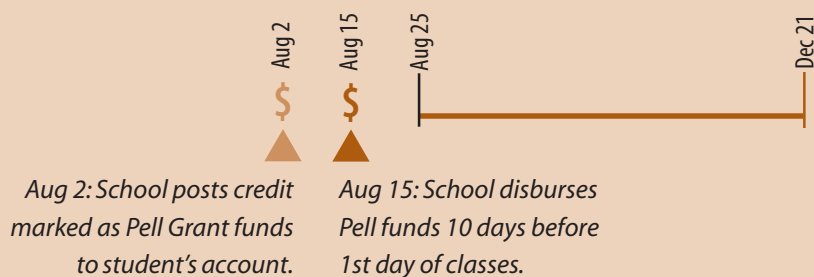
The earliest that a school may disburse FSA funds by crediting the student's account or by disbursing directly to the student or parent is 10 days before the first day of classes for that payment period. For clock hour and credit hour nonterm or nonstandard term programs, the earliest that a school may disburse FSA funds (other than FWS wages) by crediting the student's account or disbursing directly to the student or parent is the later of 10 days before the first day of classes for that payment period or the date the student completed the previous payment period for which he or she received FSA funds. In some cases, as we'll discuss, other restrictions apply.

If your school disburses Pell, Perkins, or FSEOG funds, but the student never actually begins attending any classes, you must return the disbursed amounts to the respective programs. If the student begins attending some but not all of his or her classes, you will have to recalculate the student's Pell Grant award based on the student's actual enrollment status—see *Volume 3, Chapter 3*.

If your school disburses Stafford or PLUS funds but the student does not register for the period of enrollment for which the loan was made, or a registered student withdraws or is expelled prior to the first day of classes of the period of enrollment for which the loan is made, you must return the loan funds to the lender.

If your school disburses Stafford or PLUS funds before the period of enrollment begins but the student doesn't begin attendance or you cannot document that the student ever began attendance, you must return any loan funds that were credited to the student's account, as well as the amount of any payments that the student made to your school. (The total amount to be returned is limited to the original amount of the Stafford and PLUS disbursements.)

## Early disbursement & advance credit to account



The earliest that a school may disburse Pell funds is 10 calendar days before the first day of class in the term or payment period.

Some schools post a credit to the student's account before this date, but the date the Pell is considered to be disbursed for FSA purposes is the actual date Pell funds are applied to the student's charges (August 15 in this example).

If a student is in the first year of an undergraduate program and is a first-time Stafford borrower, your school may not disburse the first installment of the Stafford loan until 30 calendar days after the student's program of study begins.

For example, if the student is enrolled in the first semester (running from September 1, 2004 to December 14, 2004) of a program that is made up of three 5-week modules, but the student is not enrolled in the first two modules of that semester, the school has to wait until 30 days after classes from the third module begins to disburse the funds.

### **Number of Stafford/PLUS disbursements: standard terms and substantially equal nonstandard terms**

If the program uses *standard academic terms* (for example, semester, trimester, or quarter) or it has *nonstandard terms of substantially equal length*, at least one disbursement is made for each term in the loan period. A program is considered to have substantially equal terms if no term in the loan period is more than 2 calendar weeks longer than any other term in the loan period.

- *If there is more than one term in the loan period*, the loan must be disbursed over all terms of the loan period. For example, if a loan period includes all three quarters of an academic year, the loan must be disbursed in three substantially equal disbursements.
- *If there is only one term in the loan period*, the loan must be disbursed in equal amounts at the beginning of the term and at the term's calendar midpoint.

### **Returning funds for students who fail to begin attendance cites**

34 CFR 668.21  
 34 CFR 690.78 (b)(1)&(2)  
 34 CFR 674.16(f)(1)&(2)  
 34 CFR 676.16(d)(1)&(2)  
 34 CFR 682.604(d)(3)&(4)  
 34 CFR 685.303(3)



## Stafford/PLUS multiple disbursements requirement & exceptions

See 34 CFR 682.207(c-e) and 34 CFR 685.301(b)

There are two significant exceptions to this multiple disbursement requirement:

→ If any payment period has elapsed before a lender makes a disbursement, a single disbursement may be made for all completed payment periods.

→ You may pay a student in an eligible *study-abroad program* in one disbursement, regardless of the length of the loan period, if your school's most recently calculated Stafford loan default rate is less than 5% for the single most recent fiscal year for which data is available.

For more information, please refer to the **Cohort Default Rate Guide** on the IFAP Web site.

<http://ifap.ed.gov/drmaterials/FinalCDRG.html>

The statutory provision that allowed schools with default rates <10% to make single disbursements for a term or 4-month period expired on September 30, 2002. (GEN 02-06)

## Multiple disbursements within a payment period

When scheduling loan payments, you can request multiple disbursements of a loan within a payment period or loan period, as long as the disbursements are substantially equal installments.

(see HEA 428G(c))

Schools that use payment periods as the basis for their return of funds calculations should note that making multiple disbursements within a payment period does not create a new or additional payment period. See Volume 5 to see how withdrawal calculations handle multiple disbursements.

## Timing of Pell disbursements

34 CFR 690.76

## Number of Stafford/PLUS disbursements: 1) credit hour programs without terms, 2) credit hour programs with non-standard terms that are not substantially equal in length, and 3) clock hour programs

Loan periods for Stafford/PLUS loans are described in *Volume 3, Chapter 4*. If the program is one academic year or shorter, the loan period is usually the length of the program. If the program is longer than an academic year, there will usually be another loan period for any subsequent academic year or remaining portion of an academic year. For each loan period in these programs —

- \* The loan must be disbursed in at least two substantially equal amounts, with the first disbursement generally disbursed at or near the beginning of the loan period; and
- \* The second half of the loan proceeds may not be disbursed until the later of:
  - a) the calendar midpoint between the first and last scheduled days of class of the loan period, or
  - b) the date the student successfully completes half the clock hours in the loan period or, for credit hours, completes half the credit hours. In programs where the student cannot earn the credit hours until the end of the loan period, the institution must determine when the student has completed half the coursework for the loan period.

## Timing of Pell Grant disbursement within a payment period

You should use your best judgment in timing the disbursement of Pell funds for a payment period to best meet the needs of students at your school. For instance, some schools credit the student accounts for school charges as soon as is permissible, and then pay the credit balance to students when they begin classes. Other schools wait until the end of the add/drop period to disburse funds, or pay students in monthly installments to help meet living expenses throughout the payment period. (If as opposed to making multiple disbursements within the payment period, your school rations disbursements to students by crediting the entire disbursement for the payment period to the student's account and making periodic disbursements to the student from these funds, it must have the student's written authorization.)

## Disbursing FSEOG & Perkins

A school that is awarding an FSEOG or a Perkins Loan for a full academic year must advance a portion of the grant or loan during each payment period.

In general, to determine the amount of each disbursement, a school will divide this award amount by the number of payment periods the student will attend. For a school that measures progress in credit hours and has academic terms, a payment period is defined as a term (a semester, trimester, quarter, or nonstandard term). The definition of payment period for a school that does not have academic



terms or a school that measures progress in clock hours is discussed in detail in *Volume 3, Chapter 1*.

A school may advance funds within a payment period in whatever installments it determines will best meet the student's needs. However, if the total FSEOG or Perkins award is less than \$501 for an academic year, only one disbursement is necessary.

If the student incurs uneven costs or receives uneven resources during the year and needs extra funds in a particular payment period, your school may advance the additional FSEOG or Perkins amounts to the student in whatever manner best meets the student's needs.

### ***Retroactive disbursements for completed periods***

Your school must pay a student retroactively for any completed payment periods within the award year if the student was eligible for payment in those periods. Thus, if you don't receive a valid SAR/ISIR for a student until the spring term, but the student was also enrolled and eligible for a disbursement in the previous fall term, that student must be paid retroactively for the fall term.

A Pell Grant disbursement for any completed term is based on the hours *completed* by the student for that term. If the student had enrolled full time at the beginning of the fall term but dropped to half-time status by the end of the term, the retroactive disbursement must be based on half-time status. At a term school, all completed coursework counts towards enrollment status, including earned F's and incompletes. (This does not apply to FSEOG and Perkins.)

To include an earlier period of eligibility when certifying a Stafford Loan, the student would have had to complete at least a half-time courseload in that period. For instance, you could include the Fall term and its costs when certifying a loan for the student in the Spring, if your school's half-time standard is 6 credit hours and the student received a B and an incomplete in two 3-hour courses taken that Fall.

In the case of loans disbursed on a payment period basis, if a student attended the previous payment period but did not maintain eligibility for a Stafford loan, you may not include the previous payment period or its costs in the loan period.

A school can make any retroactive disbursements in one lump sum.

## **Perkins & FSEOG disbursements**

- ➔ Payment by payment period:  
34 CFR 674.16(b) and 676.16(a)
- ➔ Uneven costs/uneven payments:  
34 CFR 674.16(c) and 676.16(b)
- ➔ Paying prior to student beginning attendance:  
34 CFR 674.16(f) and 674.16(d)
- ➔ Reporting Perkins Loans to credit bureau:  
34 CFR 674.16(i)

### **Uneven costs example**

Dan is enrolling in a one-year program at Ingram Technical College and must spend \$300 for books and supplies at the beginning of the program. ITC has awarded Dan a \$1,000 Perkins Loan. Rather than simply dividing the award in half, ITC may pay Dan a larger amount in the first payment period to meet the one-time cost for books and supplies.

To determine the first payment, the aid administrator at ITC subtracts the extra amount (in this case, \$300) from the total loan (\$1,000) and divides the remainder (\$700) by the number of payment periods (in this case, 2). The aid administrator then adds the regular amount for one payment period (\$350) to the determine the initial payment (\$650). The remaining amount (\$350) is then disbursed during the second payment period for a total loan of \$1,000.

### **Credit bureau reporting**

Schools must report the date and amount of each disbursement of Federal Perkins Loan to at least one national credit agency. (Please see Volume 2 for more information about credit bureau reporting.)

### **Disbursement rules for terms made up of modules**

- ➔ When a student is attending a modular program, but won't attend the first module, the date when classes begin for making disbursements is the starting date of the first module that the student will actually attend.
- ➔ The earliest the school can pay a student who is scheduled to begin attendance in the second of three 5-week modules that make up the payment period, is 10 days before the first day of the second module. (Or 30 days after the second module begins, if the student is a first-time borrower.)

## **FWS disbursements**

- 34 CFR 675.16
- also see Volume 6 for rules regarding school contribution and eligible FWS employment

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## **Noncash contribution**

Your school also has the option of paying its share of a student's FWS wages in the form of a noncash contribution of services or equipment—for example, tuition and fees, room and board, and books and supplies. However, you may not count forgiveness of a charge such as a parking fine or library fine against a student who is employed under FWS as part of the school's noncash contribution to the student.

Noncash payments (tuition, fees, services, or equipment) must be made before the student's final payroll period of the award period. If the school pays its share for a forthcoming academic period in the form of prepaid tuition, fees, services, or equipment, it must give the student—again, before the end of the student's final payroll period—a statement of the amount of the noncash contribution earned.

## **DISBURSING FWS WAGES**

Your school may use any type of payroll period it chooses, provided students are paid at least monthly. It is a good idea to have the FWS payroll correspond to other similar payrolls at the school. Unless you are paying the student with noncash contributions (see below), you must pay the nonfederal share to the student at the same time you pay the federal share.

FWS wages are earned when the student performs the work. A school may pay the student after the last day of attendance for FWS wages earned while he or she was still in school. However, when a student has withdrawn from school and is not planning to return, FWS funds may not be used to pay for work performed after the student withdrew. A correspondence student must submit the first completed lesson before receiving a disbursement under the FWS Program.

### ***Crossover payment periods***

When a payment period is in two award years (that is, when it begins before and ends after July 1), the student is paid for compensation earned through June 30 with funds allocated for the first award year and for compensation earned beginning July 1 with funds allocated for the following award year. (See *Volume 6* for a discussion of carrying back funds for summer employment.)

Disbursing to students from the correct award year is important; schools have been held liable when students were paid from the wrong FWS authorization. For audit and program review purposes, your school must have documentation (e.g., canceled checks, bank statements) in its files to show that students received disbursements in the amount charged to the FWS Program.

### ***Holding FWS funds on behalf of the student***

With written authorization from a student, a school may hold, on behalf of the student, FWS funds that would otherwise be paid directly to the student (unless this is prohibited by the terms of a reimbursement payment method). The restrictions for such an authorization are the same as those that apply to written authorizations for disbursements to student accounts. If your school holds FWS funds on behalf of students, it must:

- identify the amount of FWS funds held for each student in a designated subsidiary ledger account,
- maintain cash in its bank account that is always at a minimum equal to the FWS funds being held for students, and
- disburse any remaining balance by the end of the school's final FWS payroll period for the award period.

### **Garnishment of wages**

A student's FWS wages may be garnished only to pay any costs of attendance that the student owes the school or that will become due and payable during the period of the award. Schools must oppose any garnishment order they receive for any other type of debt; by law, FSA funds may only be used for educational purposes. If your school is not the employer in an off-campus employment arrangement, it must have an effective procedure to notify off-campus employers that garnishment of FWS wages for any debt other than a cost of attendance is not permissible.

## **COMPLETION OF COURSEWORK REQUIREMENTS**

### **Pell Grants**

For a student enrolled in a credit hour program without terms or a clock hour program, a school may disburse a Federal Pell Grant to an eligible student only after it determines that the student has successfully completed the payment period as defined in *Volume 3, Chapter 1* for which he or she has been paid a Federal Pell Grant.

### **Stafford and PLUS loans in clock hour programs**

If an educational program measures academic progress in clock hours, the school may not deliver a second disbursement until the later of the calendar midpoint between the first and last scheduled days of class of the loan period; or the date, as determined by the school, that the student has successfully completed half of the clock hours in the loan period. The school must deliver loan proceeds in substantially equal installments, and no installment may exceed one-half of the loan.

### **Stafford and PLUS loans in credit hour programs without terms and credit hour programs with terms that are not substantially equal in length**

If the program is one academic year or shorter, the loan period is usually the length of the program. If the program is longer than an academic year, there will usually be another loan period for any subsequent academic year or remaining portion of an academic year. For each loan period in these programs, the second half of the loan proceeds may not be disbursed until the later of: the calendar midpoint between the first and last scheduled days of class of the loan period, or the date the student successfully completes half the clock hours in the loan period or, for credit hours, completes half the credit hours. In programs where the student cannot earn the credit hours until the end of the loan period, the school must determine when the student has completed half the coursework for the loan period.

For credit hour term-based programs there is no requirement that a student successfully complete all of the coursework to receive payment in the next term except when nonstandard terms are not substantially equal in length. For instance, a student could receive a Pell disbursement in the Spring term after failing several courses in the Fall term, provided that the student was still making satisfactory progress under the school's policy.

### **Completion of coursework**

- Pell Grants: 34 CFR 690.75(a)(3)
- FFEL: 34 CFR 682.604(c)(8) and (c)(9)
- Direct Loans: 34 CFR 685.301(b)(5) and (b)(6)
- Excused absences: 34 CFR 668.164(b)

### **Example: coursework completion requirement in a modular program**

A 1-year program with no terms awards 24 credit hours, which are taught in a series of six 4-hour modules. The school groups the modules into two 12-hour payment periods. The first payment period takes 15 weeks to complete. The student can not progress to the second payment period until the student successfully completes 12 credit hours *and* the 15 weeks of instruction have elapsed. If the student fails the first 4-hour module, he/she will still need to successfully complete three modules (for a total of 12 credits) to progress to the next payment period.

### **Terms with clock hours**

The payment periods for clock-hour term programs are determined in the same way as for nonterm clock-hour programs. The student must complete all the clock hours in the payment period before receiving any more Pell funds. If a student doesn't complete all the hours scheduled for a term, each payment period still contains the number of clock hours originally scheduled, even if this means that none of the student's succeeding payment periods coincide with the terms.

## Disbursements when credits aren't awarded as work is completed

In some programs, it may not be possible to determine when the credit hours are earned, and thus it may be difficult to tell when a student is eligible to receive the next disbursement. For example, in some programs, credits are only awarded after the student has completed the entire program.

In such cases, the student is eligible to receive their next disbursement on the later of—

- the date your school identifies as the point when the student has completed half of the academic coursework in the program, academic year, or the remainder of the program, or loan period, or
- the calendar midpoint between the first and last scheduled days of class of the program, academic year, or the remainder of the program or loan period.

Cite: 34 CFR 682.604

### ***Excused absences***

In a clock-hour program, you're allowed to count a limited number of "excused absences" when deciding whether the student has completed the hours in a payment period. An excused absence may only be counted if the student is excused from hours that were actually scheduled, were missed, and do not have to be made up for the student to receive the degree or certificate for the program.

For instance, a student in a program that has 450-hour payment periods might miss 20 clock hours and only have attended 430 hours at the point where 450 hours of instruction had been given. If your school has an excused absences policy, and the hours missed are considered excused, this student could be paid the next disbursement of his/her Pell Grant.

To be counted for FSA purposes, excused absences must be permitted in your school's written policies. Under FSA regulations, no more than 10% of the clock hours in a payment period may be considered excused absences. If your school's *accrediting agency* or the *state agency that legally authorizes your school to operate* allows fewer hours to be counted as excused absences, you must follow the stricter standard rather than the FSA standard.

## LATE DISBURSEMENTS

A student who withdraws or otherwise ceases attendance loses FSA eligibility and generally may not be paid further funds for the enrollment period. However, a late disbursement of Title IV program funds may be made to an ineligible student (or parent in the case of a PLUS loan), 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; 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.

On November 1, 2002, the Department published regulations modifying the rules for making late disbursements. The revised regulations

- increase the time frame within which an institution may make a late disbursement from 90 to 120 days;
- provide that, for those cases in which the student is not at fault, the Department may approve an institution's request to make a late disbursement after 120 days;
- require an institution to offer or make a late disbursement to the student (or the student's parent for a PLUS loan) for a student who has completed the payment period or period of enrollment; and
- for a late disbursement of a Federal Pell Grant, eliminate the requirement that a school must have received a **valid** SAR or ISIR before the student became ineligible. Instead the Department must have processed a SAR/ISIR with an official EFC while the student was still eligible. (Of course, **the school must have a valid SAR or ISIR before it can make the actual disbursement.**)

A post-withdrawal disbursement is Title IV aid a student has earned, by virtue of a Return of Title IV Funds calculation, that was not disbursed before the student withdrew. Although a post-withdrawal disbursement is not the same as a *late disbursement*, a post-withdrawal disbursement must meet the conditions established for a late disbursement. For a student who lost eligibility because s/he ceased attendance before completing more than 60% of the payment period or period of enrollment, a school **must** make a late disbursement following the rules for a post-withdrawal disbursement in regulations governing the Return of Title IV funds (see *Volume 5 – Overawards, Overpayments, and Withdrawal Calculations*).

### Late disbursement of a PLUS loan

A school does not have to rely upon a SAR/ISIR to determine if a parent qualifies for a late disbursement of a PLUS loan. However, in cases in which a school does not have a SAR/ISIR, it may not certify or originate a PLUS loan until it documents that the student for whom the loan is intended meets all the applicable eligibility requirements (e.g., the student is not in default, does not owe an overpayment, is a citizen or eligible noncitizen, etc.).

If a student did not withdraw, but ceased to be enrolled as at least a half-time student, a school **may** make a late disbursement of a loan under the FFEL or Direct Loan programs to pay for educational costs the school determines the student incurred for the period of instruction. The school is permitted to credit the student's account to pay for current and allowable charges in accordance with the current cash management regulations. A school would have to provide notice to a student, or parent in the case of a PLUS loan, when the school credits the student's account with Direct Loan, FFEL, or Federal Perkins Loan Program funds in order to give the student or parent an opportunity to cancel all or a portion of the loan disbursement.

The revised rules require a school to disburse or offer a late disbursement to a student who completes a payment period or period of enrollment. Under the Return regulations, a student who completes more than 60% of the payment period or period of enrollment has earned 100% of his or her Title IV aid and the school **must** make or offer, as appropriate, a post-withdrawal disbursement of any of those funds that had not been previously disbursed. A student who completes 100% of the payment period or period of enrollment has the same entitlement to all of his or her Title IV funds for the period.

If a student successfully completed the payment period or period of enrollment, the school must provide the student (or parent in the case of a PLUS loan) the opportunity to receive the amount of Title IV assistance the student or parent was eligible to receive while the student was enrolled at the school. The school may credit the student's account to pay for current and allowable charges, but must pay or offer any remaining amount to the student or parent. The school must make the late disbursement to the student no later than 120 days after the date the student becomes ineligible. For an FFEL that was 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 deliver the funds to the student within 120 days of the date the student became ineligible.

The revised regulations allow a student to be considered for a late disbursement as long as the Department has processed a SAR/ISIR with an official EFC before the student became ineligible (additionally, for an FSEOG or Perkins Loan, the student must be awarded aid and for an FFEL/DL, the student's loan must be certified/originated). This provides the school with an easy way to document the student's eligibility, since each ISIR record includes the date the Department processed the application and created the SAR/ISIR. However, while the revised regulations eliminate the requirement that for payment of a Pell Grant an institution must have received a valid SAR or ISIR before the student withdrew, **the school still must have the valid SAR or ISIR before it can make an actual disbursement** of a Pell Grant.



There are additional limitation on making late disbursements. An institution is prohibited from disbursing

1. second or subsequent disbursements of FFEL or Direct Loan funds unless the student has graduated or successfully completed the loan period (34 CFR 668.164(g)(4)(ii));

For nonstandard term credit-hour programs where the terms are not substantially equal in length, credit-hour nonterm programs, and clock hour programs, an institution is prohibited from making a second disbursement until the latter of the calendar midpoint of the loan period, or the date that the student completes half of the academic coursework or clock hours (as applicable) in the loan period (34 CFR 682.604(c)(7) or (8), or 34 CFR 685.301(b)(5), or (6)).

2. disbursements of FFEL and Direct Loans to a first-year, first-time borrower who withdraws before the 30th day of the student's program of study (34 CFR 668.164(g)(4)(iii)); and
3. disbursements of Federal Pell Grant funds to a student for whom the institution did not have a valid SAR/ISIR by the deadline established by ED.

The chart that follows summarizes the conditions and limitations on making late disbursements.

### PROMPT DISBURSEMENT RULES

The prompt disbursement rules for FSA funds are very important for purposes of reporting disbursement dates to COD or to a lender. You should report a disbursement date with the expectation of promptly disbursing the funds to the student or parent within the time-frames below.

In general, a school that uses the *advance payment* method must make disbursements as soon as administratively feasible but no later than 3 business days after receiving funds from the Department or an FFEL lender. (For other payment methods, see Chapter 3 on “Requesting and Managing FSA Funds.”) The disbursements may be credited to the student’s account or made directly to the student or parent, as discussed earlier.

Note that these time-frames for disbursing to the student’s account (or directly to the student/parent) are different than those for paying FSA credit balances to the student or parent. As we discussed earlier, a school generally has 14 days to pay an FSA credit balance to the student or parent, unless it has written permission to hold the credit balance.

### Requesting permission to make a late disbursement after 120 days

The Department may authorize a school to make a late disbursement after the 120-day late deadline if the

- student meets the conditions for a late disbursement; and
- delay in making the disbursement was not caused by the student (or parent, if applicable).

To request permission to make a disbursement after the 120-day late disbursement deadline, the school must fax a request to **Policy Liaison & Implementation – Late Disbursement Request** at

(202) 275-4552

For the topic, they should enter **Permission to make a disbursement after the 120-day late disbursement deadline**.

The request must include the

1. school's name;
2. contact person at the school, his/her phone number, and his/her E-mail address;
3. name of the student;
4. student's SSN;
5. type & amounts of Title IV aid to be disbursed;
6. reason the disbursement was not made on time; and
7. Pell ID, if Pell funds are included.

If the request is for permission to make a late disbursement of an FFEL or Direct Loan, the request must include the –

- a) type of loan (subsidized, unsubsidized, or PLUS);
- b) date the loan was certified;
- c) loan period; and
- d) amount of the disbursement.

CONDITIONS AND LIMITATIONS ON LATE DISBURSEMENTS		
PROGRAM	CONDITIONS (34 CFR 668.164 (g)(2)) THAT MUST BE MET PRIOR TO LOSS OF ELIGIBILITY	LIMITATIONS (34 CFR 668.164 (g)(4)) LATE DISBURSEMENTS MAY NOT BE MADE UNLESS*
Pell Grant		School received a valid SAR/ISIR by the date established by ED.
FSEOG	The Department processed a SAR/ISIR with an Official EFC (all programs).	
FFEL	Student is awarded a grant.	
Direct Loans	A loan application is certified.	For a first-time, first-year borrower, student completed 30 days of the program.
	An origination record is created.	For a second disbursement, student graduated or successfully completed the period for which the loan was intended
Perkins Loans	Student is awarded a loan.	

\*For all programs, unless approved by ED, the late disbursement is made no later than 120 days after the date of the institution's determination that the student withdrew. Or, for a student who did not withdraw, 120 days after the student became ineligible.

**Holding FFEL funds if student is temporarily ineligible**

When a school receives FFEL Program funds from the lender by *EFT or master check*, it usually must disburse the funds within 3 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 disbursement to the eligible student (or parent borrower) no later than 30 calendar days after the school receives the funds.

In some cases, your school may receive the loan funds at a point when the student is temporarily not eligible for a disbursement—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 you expect such a student to become eligible for disbursement in the immediate future, your school has an additional 10 business days to disburse the funds. In effect, this means that your school can wait 13 days after receipt of the EFT or master check (40 days for a check requiring endorsement) to make a disbursement to a student who is expected to regain eligibility during this 10-day window.

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.

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.

**Holding Stafford loan funds for verification**

If you have certified or originated a Stafford Loan for a student who was selected for verification, and the loan funds arrive before verification is completed, your school may hold the loan proceeds for up to 45 days. If the applicant does not complete the verification process within the 45-day period, your school must return the loan funds to the lender. (You also may choose to make an interim disbursement of the loan funds, but you must return the loan funds to the lender if the student does not complete verification or is found to be ineligible based on the verified information.)

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

**Excess cash rules**

- In general, excess cash is any FSA funds other than Perkins that are not disbursed by the end of the 3rd business day after funds are received from the Department. [34 CFR 668.166]
- The regulations specifically exempt schools using the "just-in-time payment method" from this requirement.
- The cash management regulations allow a school to hold FFEL funds for up to 10 days if the student is expected to become eligible in that time. [34 CFR 668.167(b) and (c)]
- The verification regulations provide a 45-day exception for holding loan funds [34 CFR 668.58(c)]
- For information on excess cash tolerances, see Chapter 4 of this volume.

**Cash management in FFEL & DL**

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*.

**Returning FFEL funds promptly**

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.  
FFEL: 34 CFR 668.167

### **E-Sign 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.

## **USING ELECTRONIC PROCESSES FOR AUTHORIZATIONS AND NOTIFICATIONS**

The Department continues to encourage and support schools' use of electronic recordkeeping and communications. 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.

Of course, any time 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 E-Sign Act***

The E-Sign Act permits lenders, guaranty agencies, and schools to use electronic signatures and electronic records in place of traditional signatures and records that, under the HEA and underlying regulations, otherwise 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 on paper, your school may provide and maintain that record electronically. Similarly, unless a statute or regulation specifically requires schools to obtain a pen and paper signature, you may obtain the signature electronically as long as the electronic process complies with the E-Sign Act and all other applicable laws.

As an example, the Department has issued specific guidance that a school may use an electronic certification to have an FWS supervisor report the hours worked by an FWS student-employee.

# Requesting and Managing FSA Funds

*Except for funds received as an administrative cost allowance (ACA), FSA program funds received by a school 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.*

*The cash management regulations establish rules and procedures that a school must follow in requesting and managing funds for the Pell Grant, FSEOG, Perkins Loan, FWS, Direct Loan, and FFEL programs. These rules and procedures also apply to third-party servicers.*

## DRAWING DOWN FSA FUNDS

### Current Funding Level & GAPS

The Current Funding Level (CFL) is one of the mechanisms that ensure schools are reporting disbursements on a timely basis. A separate CFL is maintained for each program by award year. A school's program CFL is the amount of cash available for a school to draw down from GAPS or the amount that can be drawn down for a school. Schools operating under advance payment receive an initial CFL against which they can draw funds. Schools operating under reimbursement do not receive an initial CFL.

The Grants Administration and Payments System (GAPS) is a delivery system that supports program award and payment administration. Schools may use GAPS to request payments, adjust drawdowns, and report expenditures. It also provides continuous access to current grant and payment information, such as authorized amounts, cumulative drawdowns, current award balances, and payment histories. GAPS can be accessed through the Internet at the GAPS Web page

<http://e-grants.ed.gov/egHome.asp>

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

### CHAPTER 4 HIGHLIGHTS

#### ■ Drawing down FSA funds

- schools use the Department's GAPS payment system
- most schools use the Advance Payment or Just-in-Time payment methods
- some schools with administrative deficiencies are placed on Reimbursement or Cash Monitoring

#### ■ Maintaining & accounting for funds

- bank account notification requirements
- rules for maintaining federal funds in separate or commingled accounts
- rules for treatment of interest earned on federal funds

#### ■ Excess cash

- allowable tolerances

#### ■ Escheating prohibited

### Purpose of cash management regulations

- 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
- minimize the costs to students who receive FSA loans.

34 CFR Subpart K

Purpose 34 CFR 668.161

### **Funding methods**

Currently, there are four funding methods through which a school requests funds from the Department, they are

- the advance payment method,
- the just-in-time payment method,
- the reimbursement payment method; and
- the cash monitoring payment method.

The Department has sole discretion in determining the funding method and cash monitoring status under which FSA program funds are provided to a school.

34 CFR 668.162, except as noted

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### **Advance requests for Perkins funds**

Before requesting any funds from its Perkins FCC, a school should compare the total of the cash on hand in its Perkins account plus its expected collections, plus any expected interest and reimbursements against its anticipated disbursements.

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### **Three-day rule**

The institution must disburse the funds requested as soon as administratively feasible but no later than three business days following the date the institution received those funds.

34 CFR 668.162(b)(3)

### ***The advance payment method***

Under the advance payment method, a school may submit a request for Pell Grant, Direct Loan, and campus-based program funds through GAPS at any time — prior to or after disbursing aid to eligible students and parents. If GAPS 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 it 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.

GAPS 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.

### ***Just-in-Time payment method***

Under the Just-in-Time pilot project, a school submits a disbursement record (which is both a report of a disbursement and a request for funds) no earlier than seven days before the actual reported date of disbursement. For each disbursement the Department accepts, the appropriate amount of funds is deposited directly into the school's bank account.

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

- the 3-day-use rule discussed previously in Chapter 2 of this Volume,
- the recertification of student eligibility at the time of disbursement (a school may rely on its determination at the time it submits the disbursement record for Federal Pell Grant funds),
- the requirement that a school maintain Federal Pell Grant funds in an interest-bearing bank account (See the discussion under *Maintaining and accounting for funds.*), and
- the excess-cash rules (see the discussion under *Excess cash.*).

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

### ***Reimbursement & cash monitoring payment methods***

Under these methods the Department releases funds to the school *after* the school has made the disbursement to the student (or parent borrower). Since relatively few schools are required to use these methods, we'll discuss them separately (see boxed text).



## Reimbursement funding method

Schools placed on the reimbursement payment method must disburse Pell Grant, Direct Loan, and campus-based program funds to eligible students and parents *before* the schools may request funds from the Department. Generally, the Department places a school on reimbursement if it determines that there is a need to monitor strictly the school's participation in the FSA programs. A school on reimbursement cannot request more cash than it actually disbursed to eligible students and parents. A school on reimbursement 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 disbursements for a school on reimbursement, a FSA reimbursement analyst ensures 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.

Once a school's Pell disbursements are approved and accepted, the funds flow to GAPS. The FSA reimbursement analyst removes the block on the school's drawing down funds, requests a drawdown for the school, and then reestablishes the block. When Direct Loan disbursements are approved and accepted, direct cash payments are deposited in the school's bank account.

### *Limitations on the use of FFEL funds for schools on reimbursement*

There are limitations on the use of FFEL funds that are comparable to those applicable in the reimbursement method. 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 a request from the school to disburse funds to that borrower, and
- if prohibited by the Department, may not certify a loan for a borrower until the Department approves a request from the school 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 loans).

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 take time, the school may delay returning FFEL Program funds provided by EFT or master check to a lender for a specified period of time.

*Note: This provision is applicable only in the FFEL programs, see 34 CFR 668.167(c) & (d)*

## Cash monitoring payment method

The cash monitoring payment method is similar to the reimbursement payment method, but less onerous. Schools placed on Heightened Cash Monitoring (HCM) generally have to meet less demanding criteria before they can receive federal cash. 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:

1. At the beginning of an award year, a school on Heightened Cash Monitoring 1 (HCM1) will not have an initial CFL. Its CFL is created as the school reports and ED accepts actual disbursements in the COD system. The Department reimburses the school for those disbursements based on a modified and streamlined review and approval process under which a school may draw down cash through GAPS or have direct cash payments deposited in the school's bank account, based on actual disbursements to students reported to and accepted by the COD system. For example, under HCM1, the Department might simply require the school to identify students and their disbursement amounts and provide FSA program funds to the school based on that information alone.
2. Heightened Cash Monitoring 2 (HCM2) is more similar to the reimbursement payment method than is HCM1. Under HCM2, as under reimbursement, a school must submit some specific documentation before funds will be made available to it. However the Department may require less stringent documentation under HCM2 than under reimbursement.

Under HCM2, once a school's disbursements have been approved, Case Management initiates a drawdown through GAPS on behalf of a school or direct cash payments to the school's bank account based on actual disbursements submitted to and accepted by the COD system.

A school that is placed on HCM is subject to the same disbursement and certification limitations on its participation in the FFEL/Direct program as a school on reimbursement. However, in keeping with the nature of cash monitoring, the Department may modify those provisions. In addition, the Department may tailor the documentation requirements for schools operating under HCM on a case-by-case basis.

## MAINTAINING AND ACCOUNTING FOR FUNDS

All schools must maintain a bank account into which the GAPS 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 generally is not required to maintain a separate account for each FSA program unless the Department so specifies. If as a result of a program review or other administrative action the Department imposes this requirement, we will notify the school in writing.

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 a Uniform Commercial Code Form (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.

### **Maintaining FSA funds in a separate or commingled account**

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.

### **When a school doesn't maintain a separate federal bank account**

A school has a fiduciary responsibility to segregate federal funds from all other funds and to ensure that federal funds are used only for the benefit of eligible students. Absent a separate bank account, the school must ensure that its accounting records clearly reflect that it segregates FSA funds. Under no circumstances may the school use federal funds for any other purpose, such as paying operating expenses, collateralizing or otherwise securing a loan, or earning interest or generating revenue in a manner that risks the loss of FSA funds or subjects FSA funds to liens or other attachments (such as would be the case with certain overnight investment arrangements or sweeps). Clearly, carrying out these fiduciary duties limits the ways the

### **Maintaining & accounting for funds**

34 CFR 668.163

### **Not applicable to some programs**

The cash management requirements are not applicable to the state grant and scholarship programs. 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 (GEAR UP) are administered under rules established by the states.

### **Bank notification via UCC-1 form**

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.

school can otherwise manage cash in an operating account, when that account contains FSA funds.

### ***Accounting and financial requirements***

If a school is not required to and chooses not to maintain a separate account for FSA program funds, its accounting and internal control systems must:

- identify the balance for each FSA program that is 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 as described in *Volume 2 –School Eligibility and Operations*).

### ***Timely return of funds when a school does not maintain a separate federal bank account***

The Department considers a school that maintains FSA, HEA program funds and general operating funds in the same bank account (commingles) to satisfy the requirement that it return unearned funds on a timely basis if:

- the school maintains subsidiary ledgers for each type of funds commingled in that account that clearly show how and when those funds were used and reconciled to its general ledger,
- the subsidiary ledger for each FSA program provides a detailed audit trail on a student-by-student basis that reconciles to the amount of FSA program funds received and disbursed by the school, and
- the school updates the relevant subsidiary ledger accounts in its general ledger no later than 30 days after it determines that the student withdrew.

More specifically, the return of an unearned funds transaction should be recorded as a debit to a FSA program fund subsidiary ledger account and a credit to the school's operating fund subsidiary ledger account. The date of the return is the date this transaction is posted to the school's general ledger.

### ***Interest-bearing or investment account***

Direct Loan, Pell Grant, FSEOG, and FWS program funds must be maintained in an interest-bearing account or an investment account unless

- the school drew down less than \$3 million of 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 Accounting and financial requirements.

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.

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 (see sidebar). 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 the account.

A school must retain any interest earned on Perkins Loan funds as part of the Perkins Loan Fund. If a school maintains an account where Perkins funds are commingled with other FSA program funds, the interest earned on the Perkins funds must be identified, and those funds must be retained for use in the school's Perkins program.

### ***Perkins Loan funds***

A school that participates in the Perkins Loan Program must always maintain an interest-bearing account or an investment account for Perkins Loan funds. An investment account must consist predominantly of low-risk, income producing securities such as obligations issued or guaranteed by the U.S. Government. The school must maintain sufficient liquidity in its Perkins fund to make all required distributions.

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 and retain those funds for use in the Perkins program. The interest earned on the school's Perkins funds is not included in the \$250 maximum award year interest the school is permitted to retain.

A school may deduct from the interest earned any bank or service charges incurred as a result of maintaining the fund assets in an interest-bearing account, and deposit only the net earnings.

### **Remitting Interest**

The fastest, most efficient way to remit interest is through the GAPS web site at

<http://e-grants.ed.gov/gapsweb/>

A school with a user ID and password can go to the main menu and select "**Refunds**" then "**Interest**," They will be taken to the screens through which they can send ED interest.

Schools can also return excess interest income to ED by check. The check should be sent to:

U.S. Department of Education  
P.O. Box 952023  
St. Louis, MO 63195-2023

The school should note on the check the school's DUNS number and Document Award Number, and it should also indicate that the remittance is for interest earned.

**Excess cash**

34 CFR 668.166

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**Period of peak enrollment**

§668.166(b)(2) defines a *period of peak enrollment* as a period when at least 25% of the school's students start classes during a given 30-day period. A school identifies these periods of peak enrollment in advance, based on data from the prior award year:

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

If a collection agency or third-party servicer receives funds directly from Perkins borrowers, it must immediately deposit those funds in an *institutional trust account*. The agency or servicer may open and maintain the account, but the funds in it belong to the institution. If the funds will be held for more than 45 days, the account must be interest bearing.

**EXCESS CASH**

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 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.

Sometimes a school cannot disburse funds in the required 3 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. In view of these circumstances, a school may maintain an excess cash balance for up to 7 additional days.

**Allowable excess cash tolerances**

During a period of *peak enrollment*, a school can maintain an excess cash balance that 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 program funds to students for at least the amount of that excess cash balance.

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 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.

The Department reviews schools to determine where excess cash balances have been improperly maintained. 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 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 *Volume 2 – School Eligibility and Operations*.

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 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

### **PROHIBITION ON ESCHEATING OF FSA FUNDS**

Because program funds are awarded to a student to pay current year charges, notwithstanding any authorization obtained by a school from a student or parent, the school must pay any

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

A school that has failed to disburse the funds by those dates is in violation of the Department's cash management regulations. If a school pays credit balances by check, and 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 exercise its fiduciary responsibility to the student and the Title IV programs, and return the credit balance to the programs.

A school has a fiduciary responsibility to

- safeguard FSA funds,
- ensure FSA funds are used only for the purposes intended,
- act on the student's behalf to repay a student's FSA education loan debt when the school is unable to pay a credit balance directly to the student, and
- return to the Department any FSA funds that cannot be used as intended.

**\*NEW\*** Example of a policy to prevent escheating

Typically, each state establishes the useful life of a check or bank draft used to disburse FSA program funds. After this established date, the check cannot be negotiated and the proceeds of an uncashed check normally escheat to an unintended third-party (the state or the institution).

In state A, a bank check has a useful life of 180 days. In order to prevent FSA funds from escheating to a third-party, the Business Office at School A, at the end of each month, identifies all outstanding uncashed checks containing FSA funds. Prior to the 180th day, the Business Office voids the uncashed checks and restores the funds back to the applicable FSA program.

A school must have in place a procedure to ensure that funds do not go to an unintended third-party. Moreover, a school must have a process through which it identifies a credit balance that remains on a student's account or is undelivered to the student (or parent, if applicable) and returns those funds to the FSA programs on behalf of the student. The search for the student should end and the refund/return to the Department should be completed prior to the date the funds would otherwise escheat, but no later than a few days after a check to the student would cease to be negotiable (usually 180 days).

Under this process, *FSA funds would never escheat to a state, or revert to the school, or any other third party.* A failure to have such a process in place would call into question a school's administrative capability, its fiscal responsibility, and its system of internal controls required under the Department's regulations. credit balances to escheat.