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# Volume 4

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# Introduction to Volume 4

*The purpose of this publication is to provide participating schools with guidance on how to request, disburse, manage and report on the use of Federal Student Aid funds.*

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Here, we provide a summary of the changes and clarifications presented in greater detail in the chapters that follow. **Alone, the text herein does not provide schools with the guidance needed to satisfactorily administer the Title IV, HEA programs.** For more complete guidance, you should refer to the text in the chapters cited, the Code of Federal Regulations (CFR) and the Higher Education Assistance Act (HEA) as amended:

Throughout this volume, new information is indicated with the following symbol:



When the text represents a clarification rather than a change, it is indicated with this symbol:



When we believe that historically there might be some misunderstanding of a requirement, we indicate that with:



or



Finally, if we want to point out a bit of helpful information we indicate it with:



## Major Changes

### Chapter 1 – The MPN and the Stafford/PLUS Loan Process

- ☛ We explain that in November 2007, the Department published regulations that modified the responsibilities a school must satisfy before certifying a PLUS loan application for a graduate or professional student, and we describe those responsibilities.
- ☛ We explain that before releasing the first disbursement of a Graduate/Professional PLUS loan to a borrower who has not previously had a PLUS loan, a school must conduct entrance counseling.
- ☛ We describe the conditions a school must meet if it chooses to provide prospective borrowers with a list of *Preferred Lenders*.

### Chapter 2 — Disbursing Federal Student Aid Funds

- ☛ We describe the new deadlines for loan notification and explain how the affirmative confirmation process may satisfy some of the requirements for notification.
- ☛ We describe the new timeframes for returning funds from loans cancelled by students.
- ☛ We explain that a school may now use current-year funds to satisfy prior award year charges for tuition and fees, room, or board (and with permission, educationally related charges) for a total of not more than \$200.
- ☛ We describe the new requirements and deadlines for returning Title credit balances not successfully delivered to students.
- ☛ We describe the requirements a school must satisfy when a school opens a bank account on behalf of a student or parent, establishes a process the student or parent follows to open a bank account, or similarly assists the student or parent in opening a bank account.
- ☛ We explain how the new payment period definitions have modified the timing of disbursements.
- ☛ We explain that the provisions for making a late, late disbursement has been eliminated and provide the new maximum timeframe for making a late disbursement.

### Chapter 3 – Requesting and Managing FSA Funds

- We explain that beginning with the 2008-2009 award year schools will not receive an initial CFL for the ACG and National SMART Grant programs.
- We describe the new Excess Cash rules.
- We explain the new regulations governing the recovery of unclaimed Title IV credit balances and the timeframe for returning unclaimed funds.



# The MPN and the Stafford/ PLUS Loan Process

## CHAPTER 1

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

### STUDENT APPLIES FOR AID & COMPLETES MPN

A student who wishes to receive a Stafford Loan 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. An MPN can be used to make multiple loans for multiple years of borrowing.

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

Schools may also offer borrowers the option of completing and signing an electronic MPN. (Note, however, that schools may not require borrowers to use an electronic MPN. A borrower 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 borrower and obtaining the borrower's electronic signature. In the Direct Loan program, you can notify ED if you want it to accept electronic promissory notes for your school, and whether you want ED to only accept electronic promissory notes for borrowers who have an origination record from your school. Student and parent borrowers can log onto the Web and complete the MPN for Direct Stafford and PLUS loans at

<http://dlenote.ed.gov>.

#### Early Implementation

On November 1, 2007, the Department published regulations that modified the treatment of federal cash.

Section 482(c) of the HEA requires that regulations affecting programs under Title IV of the HEA be published in final form by November 1 prior to the start of the award year (July 1) to which they apply. That section also permits the Secretary to designate any regulation as one that an entity subject to the regulation may choose to implement earlier and the conditions under which the entity may do so.

The Secretary has used the authority to designate all of the regulations published as part of the aforementioned Federal Register for early implementation at the discretion of each school, lender, guaranty agency, or servicer, as appropriate.

This volume of the Handbook is intended to provide guidance for the 2008-2009 award year (beginning July 1, 2008), however, you may implement any changes made in the new regulations now.

#### New Promissory Note Addenda

New promissory note addenda and Plain Language Disclosures for Stafford Loans and a new promissory note addendum for Consolidation loans are available in DCL FP-08-02.

### Paper copies of MPN

Copies of the Master Promissory Note are provided to borrowers and schools by lenders and guarantors (for FFEL) or the Department (for Direct Loans). Ordering instructions for Direct Loan schools are posted under “Publications and How to Order” on the Schools Portal (fsa4schools.ed.gov).

Cites  
 FFEL: 34 CFR 682.401(d)  
 DL: 34 CFR 685.402(f) and definition of *Master Promissory Note* 34 CFR 685.102.

For your reference, sample copies of the MPN and related materials are available online :

FFEL Stafford Loan  
<http://ifap.ed.gov/dpccletters/GEN0207.html>  
 Direct Stafford and PLUS loans  
<http://www.ed.gov/DirectLoan/mpn.html>  
 DL MPN on the Web  
<http://dlenote.ed.gov>

### 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 and submit a copy of the power of attorney with the MPN to the loan holder. A photocopy or a fax of the power of attorney is acceptable.

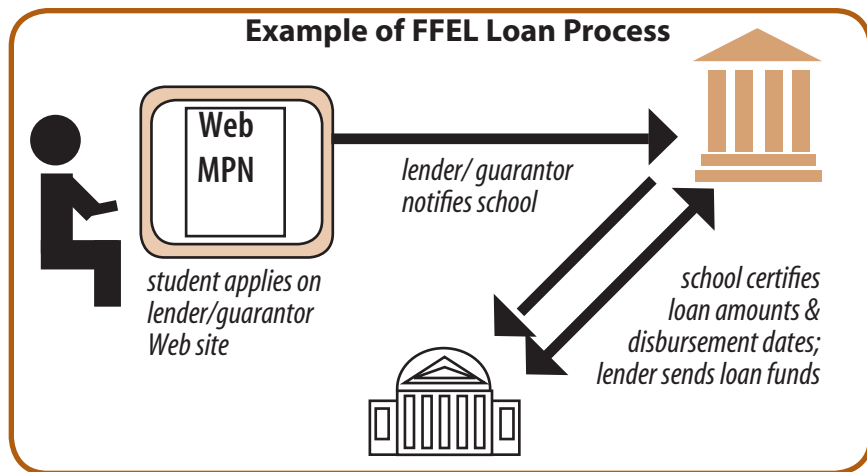
If the note is signed with a power of attorney, the student must authorize the school in writing to credit the loan funds to his or her account at the school. In addition, the school must pay any remaining balance to the student for living expenses.

See Chapter 3 for further discussion of ED approval needed to use a power of attorney for disbursements.

If your school participates in 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 a “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 a borrower is completing and signing the promissory note at a Web site, using the Department’s PIN or an alternate signature process provided by the intermediary’s Web site, the *Borrowers’ Rights and Responsibilities* statement must 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 online and designates your school.



### 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 references with U.S. addresses. 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 borrowers a list of lenders who have made loans to students at the school. However, a borrower has the right to choose his or her 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. (For more information, see the discussion under *Preferred FFEL Lender Lists* later in this chapter.)



## 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.

There are several circumstances that require a borrower to complete a new MPN. A new MPN is required if the borrower'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 borrower transfers to a school that is not eligible to use, or chooses not to use, the multi-year feature of the 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.

**Important**

### Special notes about Direct PLUS MPNs for graduate/professional borrowers:

Graduate and professional borrowers completing a Direct PLUS master promissory note (MPN) electronically should select **Complete New MPN for Student Loans** on the left-hand side of the page on the Direct Loan eMPN Web site ([www.dlenote.ed.gov](http://www.dlenote.ed.gov)) then choose the Graduate PLUS option.

Graduate and professional borrowers completing a paper Direct PLUS MPN do not have to complete the U.S. Citizenship Status box, Question 7, in Section A of the form.

- the borrower transfers from an FFEL school to a Direct Loan school, and there's no valid Direct Loan MPN on file with ED. Similarly, a borrower would need a new MPN if transferring from a Direct Loan to an FFEL school, unless there is a valid MPN on file with the lender that the borrower uses. (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, borrowers may request their MPN be an annual MPN, or may request that no additional loans be made using their current multi-year MPN. Requests that no additional loans be made using current multi-year MPNs must be in writing.

### Lender of Last Resort

A student who is otherwise eligible for a subsidized Stafford loan and, after not more than two rejections, who has been unable to find an FFEL lender willing to make such a loan, should contact the guaranty agency in his state of residence or the guaranty agency in the state in which his school is located. The guaranty agency either must designate an eligible lender to serve as a lender of last resort (LLR) or must itself serve in that capacity and must respond to the student within 60 days. An LLR cannot make a loan that exceeds the borrower's need, and it is not required to make a loan for an amount less than \$200. The LLR, as with any other lender, may refuse to make the loan if the borrower fails to meet the lender's credit standards.

Each guaranty agency is required to develop rules and procedures for its LLR program.

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:

1. the date ED or the school receives the borrower's written notification that no further loans may be made;
2. if no disbursement is made during the 12-month period, one year after the date ED received the MPN; or
3. ten years after the date ED received 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.

Note: 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 ED receives the MPN, the COD system currently uses the date the MPN is received.

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### Lender of last resort

34 CFR 682.401(c)

### 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 to 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 Bulletin DLB-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.

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

1. the date the lender receives the borrower's written notification that no further loans may be made;
2. if no disbursement is made during the 12-month period, one year after the date the borrower signed the MPN; or
3. ten years from the date the student signs 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.

### The Confirmation Process

A crucial step in multi-year use of the MPN is the confirmation process. Confirmation helps the student or parent maintain control over the borrowing process. The confirmation process may be designed to be part of the required notices and disclosures (discussed in chapter 2), or it may be a separate process that supplements those notices and disclosures.

To help ensure student borrower control over the borrowing process, a student borrower must accept, either actively or passively, the loan amount offered.

- **Active confirmation** — a 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.
- **Passive confirmation** — a school does not disburse the loan until the borrower is notified of his or her 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 borrower would be asked to confirm the loan amount offered by responding to your school's offer. For passive confirmation, the borrower would be asked to respond only if he or she wanted to cancel or reduce the loan amount offered.

#### Consumer information for the borrower

Borrowers need to be fully advised on the costs and responsibilities of borrowing.

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

1. At the same time as the MPN, a **Borrower's Rights and Responsibilities Statement**.
2. 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 ED).
3. For any subsequent loans provided under an existing MPN, a **Plain Language Disclosure** (PLD) provided by the lender or ED. (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 *Volume 2, School Eligibility and Operations*).

### **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 — for example, 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 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. DCL GEN 98-25 provides examples of each of these confirmation approaches.

The most effective processes will likely vary among schools. Participants are encouraged to use and test various technologies in this process. Some technologies suggested include the Internet, email, card technologies and voice response.

Generally, schools (in both the Direct Loan and FFEL programs) should use the same confirmation process for all borrowers. However, in some cases, a school may want to establish more than one confirmation process 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, a school could have a policy that requires active confirmation for undergraduate students and passive confirmation for graduate students.

Regardless of the process(es) used, schools and FFEL lenders must document their confirmation procedures. A school (and lenders in 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.

## PLUS MPN

**Note:** Unless otherwise noted, the terms PLUS and PLUS borrower refers to both parent and graduate/professional PLUS borrowers.

Parents and graduate/professional students applying for a PLUS loan must complete a PLUS Application and Master Promissory Note. All student PLUS borrowers must complete a FAFSA. A parent borrower must complete a FAFSA if required by their child's school. All PLUS borrowers must receive the *Borrowers' Rights and Responsibilities Statement* with the loan application.

At U.S. domestic schools a 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 under the same conditions discussed for the Stafford Loan MPN under *Multi-year use of the MPN* and *When a new MPN is required*. A separate PLUS MPN is required for each dependent student, or if both parents want to borrow individually on behalf of the same student. A new PLUS MPN would also be required under the same conditions discussed for the Stafford Loan MPN under *Multi-year use of the MPN* and *When a new MPN is required*. A graduate or professional student PLUS borrower may also obtain additional loans under the original MPN for up to 10 years after the date the MPN was signed.

If a graduate or professional student PLUS borrower is also a parent who is borrowing a PLUS Loan for one or more dependent students, the borrower must sign one PLUS MPN to borrow for himself/herself and a separate PLUS MPN to borrow for each dependent student. As with parent PLUS borrowers, a student PLUS borrower may choose to sign a new PLUS MPN for each new PLUS loan even if that would not otherwise be required. A school or lender may also require a new PLUS MPN for each new PLUS loan.

### 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 period.

### Grad PLUS MPN at foreign schools

A graduate or professional student attending an eligible foreign institution will only be able to use the multi-year feature of the PLUS MPN if the school has been expressly approved by the Department to have its student and parent borrowers do so. No eligible foreign institution is approved for this purpose at the current time. As a result, until the Department approves foreign institutions for this purpose, a graduate or professional student PLUS borrower attending an eligible foreign institution will need to sign a new PLUS MPN for each new loan period.

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**Determination of Stafford  
eligibility required**

34 CFR 682.603(d), 34 CFR 685.301(a)



### *Establishing Grad/Professional Eligibility*

The terms and conditions applicable to Parent PLUS Loans also apply to Graduate/Professional PLUS loans. These requirements include a determination that the applicant does not have an adverse credit history. In order to establish eligibility to apply for graduate/professional PLUS Loans students must also complete a Free Application for Federal Student Aid (FAFSA).

In November 2007, the Department published regulations that modified the responsibilities of a school before certifying a PLUS loan application for a graduate or professional student and added a requirement a school must satisfy before releasing the first disbursement of a Graduate/Professional PLUS loan.

The Department believed that with the newly authorized availability of PLUS Loans to graduate and professional students, there was a need to revise the loan counseling requirements to account for graduate and professional student PLUS borrowers. In addition, in order to ensure that the cost of borrowing for graduate and professional students is as low as possible, the Department determined that borrowers who are eligible for both Stafford Loans and PLUS Loans must be given information on the relative merits of each loan type, and be given an opportunity to obtain a Stafford Loan prior to the borrower's receipt of a PLUS Loan.

Before certifying a PLUS loan application for a graduate or professional student borrower, a school must determine the borrower's eligibility for a Stafford loan. If the borrower is eligible for a Stafford loan but has not requested the maximum Stafford loan amount for which the borrower is eligible, the school must:



1. Notify the graduate or professional student borrower of the maximum Stafford loan amount that he or she is eligible to receive and provide the borrower with a comparison of –
  - a. The maximum interest rate for a Stafford loan and the maximum interest rate for a PLUS loan;
  - b. Periods when interest accrues on a Stafford loan and periods when interest accrues on a PLUS loan; and
  - c. The point at which a Stafford loan enters repayment and the point at which a PLUS loan enters repayment.

2. Give the graduate or professional student borrower the opportunity to request the maximum Stafford loan amount for which the borrower is eligible.

Note that a graduate or professional student is not required to receive Federal Stafford Loan funds as a condition for receiving a Federal PLUS Loan, and a school may not require a graduate or professional student to receive Federal Stafford Loan funds before the student may apply for a Federal PLUS Loan.

Prior to its release of the first disbursement a Graduate/Professional PLUS loan, unless the borrower has received a prior Federal PLUS loan or Direct PLUS loan, a school must conduct initial loan counseling. Schools must provide certain information to PLUS borrowers who have received prior Stafford loans, and must provide other information to PLUS borrowers who have not received prior Stafford Loans.

Note: Loan counseling requirements do not apply to Parent PLUS borrowers.

### **PLUS borrower certification**

Because a parent or graduate/professional student may borrow up to the student's cost of attendance minus other estimated financial assistance for the loan period, it is especially important that the parent or student borrower specify the amount that he or she wants to borrow. Each school and lender must establish and document the process by which one of the parties will collect the requested loan amount from PLUS Loan borrowers. A PLUS loan may not be made for more than the amount the borrower requests.

Your school must collect this information before certifying the PLUS Loan and may use various means such as the PLUS Certification form (for FFEL – see sidebar), a borrower response section on your financial aid award letter, a separate PLUS form, documented telephone or electronic requests or other means. If your school participates in the FFEL program, you may also make arrangements with FFEL lenders for them to collect this information from PLUS borrowers before approving the loan.

Whether your school or the lender collects the information, you must establish and document how the PLUS borrower's loan amount request will be collected. You (or the lender) also must maintain a record of any requests by the borrower (in writing, by phone or electronically) for any adjustment to the loan amount.



### **Initial PLUS loan counseling required**

34 CFR 682.604(f)(2) & 34 CFR 685.304(a)(2)

#### **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 and Student Information* section. If you elect to secure the loan information and initiate the process, you may send the Certification form to the borrower 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 borrower's signature and provide the school certification data.

For parent PLUS applicants, before certifying the loan, you must determine the Title IV eligibility of the dependent student on whose behalf the parent is borrowing. Moreover, because a parent may not borrow on behalf of a student who is ineligible for Title IV aid, for a parent PLUS Loan, you must not certify the application until you have obtained the dependent student's complete financial aid history. Also, when certifying a parent PLUS loan, you must certify the dependent 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 dependent student is eligible for additional unsubsidized Stafford loan limits.

If your school participates in the FFEL program and is eligible to use the multi-year PLUS MPN, the borrower's PLUS Loan request for subsequent years is sufficient documentation to make additional loans—there is no separate confirmation process for PLUS loans—but the PLUS borrower's PLUS Loan amount request must be secured for each loan made using an MPN. Direct Loan schools using the PLUS Loan MPN as a multi-year note are required to have an active confirmation process.

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

To borrow a PLUS Loan, the applicant must not have an adverse credit history. 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 a PLUS borrower is ineligible for a PLUS Loan based on an adverse credit history, the lender, or the Department for Direct Loans, must obtain a credit report on the borrower from at least one national credit bureau. To provide a more accurate determination of adverse credit, the report must be obtained within a timeframe reasonably related to the loan period. If the PLUS 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.

**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*.



If a PLUS borrower has an adverse credit history, the applicant has the option of receiving a PLUS Loan using an endorser who does not have an adverse credit history. If an endorser will be used, a separate Endorser Addendum is required for each PLUS Loan. Any loan that requires an endorser 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 includes 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 A STAFFORD LOAN

The school's primary responsibility in the loan application process is to certify that the borrower is eligible for the loan amounts requested based on annual and aggregate loan limits. In addition, if your school initiates or receives an MPN, it must ensure the completeness and accuracy of the MPN based on information it has available to it.

In Direct Loans, the certification information is part of the loan origination record sent electronically to COD. An FFEL school may submit the certification to the lender electronically or on the paper Federal Stafford Loan School Certification form. You must provide this certification each time you make a loan under an MPN.

### *Certifying eligibility*

You must confirm (as part of certification or origination) that a student is an eligible borrower (see *Volume 1—Student Eligibility*). The school's certification/origination also includes the borrower's grade level, loan period and the amounts of the disbursements (using the rules described in *Volume 3, Chapter 4*), as well as the borrower's enrollment status and anticipated completion/graduation date.

For Stafford loans, if a student previously attended another college, check the student's financial aid history on NSLDS before disbursing funds to ensure 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*.)

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.

### School Responsibilities

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

### 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, regardless of whether ED-selected or school-selected, you have the option of certifying or originating a Stafford Loan, but the loan funds may not be disbursed until verification has been completed.

**Cite**  
34 CFR 668.58

You may not certify a loan for more than the:

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

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

### ***Refusing to originate or certify a loan***

On a case-by-case basis, you may refuse to certify/originate the loan for a borrower. Similarly, you may certify/originate 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 do not 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/originate 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/originating 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/originate loans for ineligible borrowers, or for loan amounts that exceed loan limits or the borrowers' 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.

## 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, including –
  - ✓ determining the student’s enrollment status and satisfactory academic progress status;
  - ✓ reviewing 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 the Stafford annual loan limit for an undergraduate enrolled in a program of study that is shorter than an academic year, or a remaining period of study that 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.

## PREFERRED FFEL LENDER LISTS

With student loan defaults a national concern in the early 1990s, some schools began recommending to borrowers that they use lenders that the school believed provided high-quality customer service in loan origination and servicing, with the goal of preventing loan delinquency and default and its negative consequences for borrowers and schools. These recommendations came to be known as *Preferred Lender Lists*.

Over the intervening years special relationships between schools and lenders developed. Some of those relationships jeopardized a borrower’s right to choose an FFEL lender, and undermined a student financial aid administrator’s role as an impartial and informed resource for students and parents working to fund postsecondary education.

In November, 2007, the Department published regulations that will help ensure that Preferred Lender Lists are a source of useful, unbiased consumer information that can assist students and their parents in choosing a FFEL lender from the over 3,000 lenders that participate in the FFEL Program.

### Preferred Lender List

(34 CFR 682.212(h)(2))





If a school that chooses to provide prospective borrowers with a list of *Preferred Lenders*, the school must ensure that the list, as well as the school's procedures for awarding, packaging, or assigning a lender to first-time borrowers meet the following conditions:

1. The preferred list must include at least three lenders that are not affiliated with each other.

*Affiliation*, for purposes of a preferred lender list, is limited to affiliates that are under common ownership and control.

2. The preferred list may not include lenders that have offered, or have offered in response to a solicitation by the school, financial and other benefits **to the school** in exchange for inclusion on the school's preferred lender list.

A school may include lenders on its preferred list who offer lower costs and benefits to students at the school provided the lenders do not discriminate on any legally prohibited basis.

3. As part of its preferred list, the school must disclose to prospective borrowers, the method and criteria the school used to select any lender that it recommends or suggests.
4. The list must include comparative information about interest rates and other benefits offered by the lenders.
5. A school must update its preferred lender list and any accompanying information at least annually.
6. In any information related to its list of lenders, the school must include a prominent statement advising prospective borrowers that they are not required to use one of the school's recommended or suggested lenders.
7. A school may not through award packaging or other methods, only assign lenders to first-time borrowers who are on the school's list, and may not delay certification of a borrower's loan eligibility to a lender because that particular lender is not on the school's preferred lender list.



A school may not refuse to certify, or delay certification, of a Stafford or PLUS loan based on the borrower's selection of a particular lender or guarantee agency, or for first-time borrowers, assign through award packaging or other methods, a borrower's loan to a particular lender.

34 CFR 682.603(f)

## SCHEDULING LOAN DISBURSEMENTS

### *Timeframe for disbursing or returning loan funds*

Though based on different regulatory requirements, when a school receives Direct Loan cash from the Department or FFEL cash through electronic funds transfer (EFT) the school must disburse the funds within three days or return the funds to the Department or the lender as appropriate.

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

Schools to which ED pushes cash do not request funds directly through GAPS. The COD system pushes funds (automatically sends electronic payments) through GAPS to these schools based on disbursement records submitted and accepted by COD. Similarly, schools on Reimbursement or Heightened Cash Management do not request funds directly through GAPS. These schools receive funds based on disbursement records accepted by COD and approved by a reimbursement analyst (see Chapter 3).

Schools that receive funds through the Advanced Payment method must request funds directly through GAPS. Advance Pay schools are not required to submit disbursements prior to requesting funds. These schools receive an initial Current Funding Level (CFL) against which they can draw funds. As these schools submit disbursement records that substantiate the school's drawdowns in a timely manner (within 30 days of the disbursement date) the school's CFL will increase to a level that should allow the school to request the funds it needs to make its scheduled Direct Loan disbursements.

In order to comply with the excess cash regulations, when requesting funds with which to make Direct Loan disbursements, schools must ensure they do not draw down more cash than they can disburse over the next three days.

### *Scheduling FFEL disbursements with a lender*

The rules for when loan payments can be disbursed to borrowers are discussed in Chapter 2 of this volume. Once the anticipated dates of the disbursement to the borrower have been established, you can specify to the lender the dates on which you need to receive the loan funds. (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 borrowers.)

#### **Pushed cash schools must return funds**

In general, a school using the Advanced Payment method may use the federal cash it draws down for any eligible student. However, all cash that ED sends to a school through the pushed cash method are student specific. They are intended solely for disbursement to the students specified on the *Funded Disbursement Listing* report.

If you do not disburse the funds to the intended recipients (on the *Funded Disbursement Listing Report*), you must return those funds as excess cash to ED.

#### **FFEL three-day rule**

34 CFR 668.167(b)(2)

#### **Requesting check from a Stafford lender that requires endorsement of the borrower**

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.

**Cite**

(34 CFR 668.167)

**Requesting EFT or master check from lender**

**Stafford:** A school may not request that a lender 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.

**Cite**  
(34 CFR 668.167)

In keeping with the standard 3-day turnaround time for payment of FSA funds to students, 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 borrowers. Note that this rule parallels but is not the same as the excess cash rule at 34 CFR 668.166.

If you are requesting a check that requires the endorsement of a borrower, you may not ask the lender to provide the check any sooner than 30 days before it could be disbursed. (See sidebars.)

**FFEL Lender/guarantor approval**

The lender or guarantor will match the information included by the school on the certification (electronic or paper) to the MPN by comparing the borrower’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 borrower’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 a borrower 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 borrower or parent. At the request of the borrower, the lender will send the funds directly to the borrower 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.

**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.

**Cite**  
Section 428(n) of the HEA

## 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.

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

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

### **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.

### **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 an acknowledgment from COD.

### **Student completes MPN.**

The student fills out an MPN for the initial loan.

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

### **Disclosure & Entrance Counseling.**

Either before or at the time of the first disbursement, the borrower must be given a disclosure statement with specific information about the types of loans the borrower is getting, anticipated disbursement amounts, anticipated disbursement dates and instructions on how to cancel the loans. (The disclosure is often provided by the lender or ED.)

- First-time Stafford borrowers must complete entrance counseling before a disbursement 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 a confirmation process (either active or passive) 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 ED.) If the MPN is not used as a multi-year note, a borrower completes a new MPN for each subsequent loan period.

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

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

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





# Disbursing Federal Student Aid Funds

## CHAPTER 2

*These rules apply to the following programs: Pell Grant, ACG, National SMART Grant, FSEOG, Perkins Loan, Direct Loan, FFEL. We have indicated when a rule applies to FWS. This chapter will discuss the rules for crediting Federal Student Aid (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*

In general, there are two types of notifications a school must provide: (1) a general notification to all students receiving Title IV aid; and (2) a notice when loan funds are credited to a student's account.

#### *General notification*

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

#### *Loan notification*

Except in the case of loan funds made as part of a post-withdrawal disbursement, when Perkins, Stafford or PLUS loan funds are being credited to a student's account, the school must also notify the student or parent in writing (in writing means on paper or electronically) of the:

- anticipated date and amount of the disbursement;
- student's (or parent's) right to cancel all or part of the loan or disbursement (not required if issuing a paper check under the FFEL program); and

#### **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 (including the payment of loan funds) to the student or parent.

In this chapter, we will use disbursement in the sense of the Cash Management regulations, that is, payment to the borrower.

#### **Notices and Authorizations**

34 CFR 668.165(a)

#### **Borrower notification via email**

If you are notifying the student of the next disbursement by electronic mail or other electronic means, you are encouraged to follow up on any electronic notice for which you receive an "undeliverable" message.

**Confirmation process**

34 CFR 668.165(a)(6)(i)



- procedures and the time by which the student (or parent) must notify the school that he or she wishes to cancel the loan or disbursement.

This notification must be sent –

1. no earlier than 30 days before, and no later than 30 days after crediting the student’s account **if the school obtains active confirmation** as described in the next section.
2. no earlier than 30 days before, and no later than 7 days after crediting the student’s account if the school does **NOT** obtain **affirmative** confirmation.

The active confirmation process described in chapter 1 under *The Multi-year use of the MPN* satisfies the requirement that a school notify students of their right to cancel all or part of their loan. In addition, 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, if FFEL loan funds are received from a lender by a means other than EFT payment or master check, the notice to the student or parent need not include information on the right of the student or parent borrower to cancel all or a portion of the loan.

*Loan Cancellation Notice and Affirmative Confirmation of a Loan*

On November 1, 2007 the Department published regulations that condition the loan cancellation provisions on whether a school obtains affirmative (active) confirmation from a student that he or she wants a loan.

Affirmative confirmation is a process under which a school obtains written confirmation of the types and amounts of FSA program loans that a student wants for an award year before the school credits the student’s account with those loan funds.

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.

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

Anytime a school returns an FFEL disbursement or any portion of an FFEL disbursement to a lender, the origination fee and insurance premium are reduced in proportion to the amount returned.

In the 30-120 day time frame, a school has the option of canceling the loan or directing the borrower to contact the DL Servicing Center. If a borrower returns the full amount of a loan within 120 days of disbursement, the loan is cancelled and the origination fee and insurance premium are eliminated.

If a borrower not in repayment returns an FFEL disbursement or any portion of an FFEL disbursement to the lender within 120 days after disbursement, the origination fee and insurance premium are reduced in proportion to the amount returned.

For information on how returning Direct Loans affects loan fees and accrued interest, see DLB-04-07.

FFEL 34 CFR 682.202(c)(7)(i); 682.209  
DL 34 CFR 685.202(c)(4) & 685.211

If the student or parent borrower wishes to cancel all or a portion of a loan, he or she must inform the school. A school must return the loan proceeds, cancel the loan, or do both, provided that the school receives the loan cancellation request –

1. if the school obtains affirmative confirmation from the student, by the later of the first day of a payment period or 14 days after the date the school notifies the student or parent of his or her right to cancel all or a portion of a loan; or
2. if the school does not obtain affirmative confirmation from the student, within 30 days of the date the school notifies the student or parent of his or her right to cancel all or a portion of a loan.

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 **in writing** 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 **e.g., as a result of a credit to the student's account** 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.

## REQUIRED STUDENT/PARENT AUTHORIZATIONS

Before your school can perform any of the following activities, you must obtain authorization from a student (or parent borrower):

- Disburse FWS wages by EFT to a bank account designated by the student or parent.
- Use FSA funds (including FWS) to pay for allowable charges other than tuition, fees and room and board if the student contracts with the school.
- Hold an FSA credit balance.
- Apply FSA funds to prior-year charges other than for tuition, fees, room, and board.

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.



### Self-Assessment Tool For Disbursement Procedures:

You can evaluate your Disbursement related procedures by referring to the Fiscal Management module of the FSA Assessments at:

<http://ifap.ed.gov/qahome/qaassessments/fiscalmanagement.html>

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 prior-year charges other than for tuition, fees, room, and board, 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.

## USING ELECTRONIC PROCESSES FOR NOTIFICATIONS & AUTHORIZATIONS

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. You may also use an electronic process to provide required notices and make disclosures by directing students to a secure Web site that contains the required notifications and disclosures.

If you use an electronic process to provide notices, make disclosures and direct students to a secure Web site, you must provide direct individual notice to each student. You may provide the required notice through direct mailing to each individual through the U.S. Postal Service, campus mail, or electronically directly to an email address.

The individual notice must —

- identify the information required to be disclosed;
- provide the inter- or intranet address where the information can be found;
- state that, upon request, individuals are entitled to a paper copy; and
- inform students how to request a paper copy.

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 Gramm-Leach-Bliley (GLB) Act

requires that schools have in place an information security program to ensure the security and confidentiality of customer information; protect against anticipated threats to the security or integrity of such information; and guard against the unauthorized access to or use of such information. (For information on the GLB Act, see *Volume 2, chapter 9*.)

## THE E-SIGN ACT

### 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.

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.

Section 2 of the Department's *Standards for Electronic Signatures in Electronic Student Loan Transactions* provides some additional information on the applicability of electronic transactions to student loans.

You can find it at

<http://ifap.ed.gov/dpclatters/gen0106.html>.

Before conducting electronic transactions that require financial information to be provided or made available in writing to a recipient of FSA funds, the recipient must affirmatively consent to the use of an electronic record in a manner that reasonably demonstrates that the individual is able to access the information to be provided in an electronic form. (For example, if you are going to send financial information by email, you could send a request for consent to the recipient via email, require the recipient to respond in a like manner, and maintain a record of that response.) The recipient's consent must be voluntary and based on accurate information about the transactions to be completed.

### Voluntary Consent Required

Voluntary consent to participate in electronic transactions is required for all financial information provided or made available to student loan borrowers, and for all notices and authorizations to FSA recipients required under 34 CFR 668.165.

## 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 paying 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 include:

- current charges for tuition and fees as defined in *Volume 3, chapter 2* and room and board (if the student contracts with the school); and
- other current charges that a student has incurred for educationally-related activities if you obtain the student's written authorization or the parent's written authorization – in the case of PLUS loan funds).

If an educationally related charge does not meet the definition of tuition and fees as described in Section 472 of the HEA (with the exception of contracted room and board charges), the school must obtain the student's permission (or parent's, if applicable) to use FSA program funds to pay for the charge.

### **Paying Prior-Year 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, a school may use current-year funds to satisfy prior award year charges for tuition and fees, room, or board (and with permission, educationally related charges) for a total of not more than \$200.** A school may not pay prior year charges in excess of \$200.

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

**Note:** A school must apply the new regulations on paying prior-year charges for any credit balance created by a disbursement made by the school on or after July 1, 2008.

### **Method of disbursement**

- Credit to students account: 34 CFR 668.164(c)
- 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: 34 CFR 668.164(d)(3)
- Cost of attendance: Section 472 of the HEA
- Prior-year charges: 34 CFR 668.164(d)

#### **Current charges**

Charges assessed by the school for the current award year or the loan period for which the school certified or originated an FFEL or Direct Loan.

#### **Crediting Direct Loan funds to student charges first**

Direct Loan funds credited to a student's account must first be used to pay for current charges.



### **Tuition and fees cite**

Section 472 of the HEA



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## Direct payments

34 CFR 668.164(c)

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## FWS Disbursements

34 CFR 675.16.

### Self-assessment tool for disbursement procedures

You can evaluate your school's procedures by referring to *Disbursing Aid* in the *Managing Funds* module of *FSA Assessments*.

<http://ifap.ed.gov/qamodule/DisbursingAid/AssessmentE.html>

### SAP & disbursing FSA funds

Before disbursing funds to students enrolled in programs equal to or less than one year in which students do not receive grades or credits until the end of the program your school must –

1. have an SAP standard as described in Volumes 1 and 2 of the *FSA Handbook*;
2. measure a student's standing vis-a-vis SAP by the time the student has completed one-half of the program; and
3. not make second disbursements of FSA funds to a student who is not making satisfactory academic progress.

For programs greater than one year in length in which students do not receive grades or credits until the end of the program, your school must –

1. have an SAP standard as described in Volumes 1 and 2 of the *FSA Handbook*;
2. measure a student's standing vis-a-vis SAP at least once a year; and
3. not award FSA funds for any additional period to a student to a student who is not making satisfactory academic progress.

## *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:

1. **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).
2. Initiating an **electronic funds transfer (EFT)** to a bank account designated by the student or parent.

We include transferring funds to stored-value cards and debit cards to disburse FSA funds under this method of direct disbursement. For more information on stored-value and debit cards, please see the discussion under Credit Balances later in this chapter.

3. Disbursing to the student in **cash**, provided that your school obtains a signed receipt from the student or parent, or
4. **Releasing a FFEL check** sent by a lender.

A school may receive a borrower's Stafford Loan funds from a lender in the form of an individual bank check made payable to the borrower or co-payable to the borrower and the school. In the case of a co-payable check, the school and the borrower must endorse the check.

Co-payable PLUS Loan checks must be sent directly to a school by a lender. A school must disburse PLUS proceeds to a parent borrower within 30 days of receiving a check. However, a school is not required to endorse a PLUS check before sending it to a parent borrower. The school may require the parent borrower to endorse the check and return it to the school for the school's endorsement. The school then endorses the check, deposits it and disburses the funds.



## Defining the date of disbursement

*(These rules apply to the FWS program as well.)*

It is important to define the date of disbursement because several regulatory requirements are based on that date. For instance, you must disburse a FSA credit balance to a student within 14 days of the date it was created or within 14 days of the first day of class, and you must notify a student of a loan disbursement within a time frame related to the date of that disbursement.

The date of disbursement also determines when the student becomes an FSA recipient and has the rights and responsibilities of an 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.

A disbursement occurs when your school credits a student's account **or** pays a student or parent directly with:

1. FSA program funds received from the Department;
2. FSA program funds received from an FFEL lender, or
3. School funds labeled as FSA program funds in advance of receiving actual FSA program funds (except as noted below<sup>1</sup>).

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 earlier than 10 days before the first day of classes of a payment period, that credit is not considered 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 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.

<sup>1</sup>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.

## Credit balances

34 CFR 668.164(e)

Note: FSA regulations refer to the amount of aid that exceeds the allowable charges 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 pay a credit balance that is less than \$1.00.

### 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 computer 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.

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

## 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 creates 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 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.

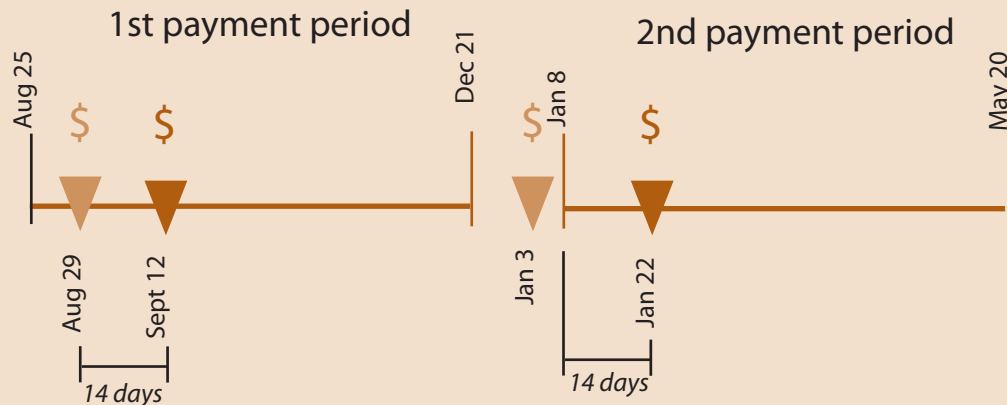
The law requires that any excess PLUS Loan funds be returned to the parent. Therefore, if PLUS Loan funds create a credit balance, the credit balance would have to be given to the parent. However, the parent may authorize your school (in writing) to transfer the proceeds of a PLUS Loan to a student directly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

A school may not require a student to take any actions to obtain his or her credit balance. It is the sole responsibility of the school to pay, or make available, any Title IV credit balance within the 14-day regulatory timeframes.

Cite FR 72-152, August 8, 2007, page 44630

## 14-day timeframe 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.

### Paying a credit balance by issuing a check

A school may pay a credit balance to a student by issuing a check payable to and requiring the endorsement of the student or parent. A school is considered to have issued the check on the date that it –

- a. mails the check to the student or parent; or
- b. notifies the student that the check is available for immediate pickup.

Note: The notice to the student must include the specific location where the student can pick up the check.

The institution may hold the check for up to 21 days after the date it notifies the student. If the student does not pick up the check within this 21-day period, the institution must immediately mail the check to the student or parent, initiate an EFT to the student's or parent's bank account, or return the funds to the appropriate Title IV, HEA program;

### Paying credit balance by check

34 CFR 668.164(c)(1)(ii)



### 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. However, the school may charge for a replacement card.



## Paying a credit balance by initiating an EFT

A school may pay a credit balance by initiating an electronic funds transfer (EFT) to a bank account designated by the student or parent.

**Note:** *Bank Account* means a Federal Deposit Insurance Corporation (FDIC) insured account or a National Credit Union Share Insurance Fund (NCUSIF) account. This account may be a checking, savings, or similar account that underlies a stored-value card or other transaction device.

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### Paying credit balance by EFT

34 CFR 668.164(c)(1)(iii) and (c)(3)

A school may establish a policy requiring its students to provide bank account information, or open an account at a bank of their choosing as long as this policy does not delay the disbursement of FSA funds to students. Consequently, if a student does not comply with the school's policy, the school must nevertheless disburse the funds to the student either by dispensing cash for which the school obtains a signed receipt; or issuing a check. A school must disburse the credit balance within the regulatory timeframes.

### Paying Pass-through Charges

The law allows a school to credit a student's account with FSA funds only to pay for institutionally provided housing. However, it is not necessary that the school actually own the student housing. The school may enter into a contract with a third party to provide the institutional housing.

If a school enters into a contract with a third party to provide institutional housing, the school may credit FSA funds to a student's account to pay for housing provided by a third party.

Keep in mind that other FSA requirements apply to both the funds used for the housing payment and to the physical location of the housing. For instance –

1. A school must include the cost of housing as an institutional charge in any Return calculation required when an eligible recipient ceases to be enrolled prior to the end of the payment period or period of enrollment. (See *Volume 5, chapter 2.*)
2. The school is required to report statistics concerning the occurrence of crimes in the third party housing. (See *Volume 2, chapter 6.*)
3. The third party must comply with the civil rights and privacy requirements contained in the school's Program Participation Agreement. (See *Volume 2, chapter 3.*)

### **Standards Required When a School Opens or Assists Students or Parents to Open a Bank Account (34 CFR 668.164(c)(3))**

In cases where a school opens a bank account on behalf of a student or parent, establishes a process the student or parent follows to open a bank account, or similarly assists the student or parent in opening a bank account, the school must –

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| <ol style="list-style-type: none"> <li>1. Obtain in writing affirmative consent from the student or parent to open that account;<sup>1</sup></li> <li>2. Before the account is opened, inform the student or parent of the terms and conditions associated with accepting and using the account;</li> <li>3. Not make any claims against the funds in the account without the written permission of the student or parent, except for correcting an error in transferring the funds in accordance with banking protocols;</li> <li>4. Ensure that the student or parent does not incur any cost in opening the account or initially receiving any type of debit card, stored-value card, other type of automated teller machine (ATM) card, or similar transaction device that is used to access the funds in that account;</li> <li>5. Ensure that the student has convenient access to a branch office of the bank or ATMs of the bank in which the account was</li> </ol> | <p>opened (or ATMs of another bank), so that the student does not incur any cost in making cash withdrawals from that office or ATMs.</p> <p>This branch office or these ATMs must be located on the institution's campus, in institutionally-owned or operated facilities, or consistent with the meaning of the term "Public Property" immediately adjacent to and accessible from the campus;</p> <ol style="list-style-type: none"> <li>6. Ensure that the debit, stored-value or ATM card, or other device can be convertible to cash, and can be widely used, e.g., the institution may not limit the use of the card or device to particular vendors; and</li> <li>7. Not market or portray the account, card, or device as a credit card or credit instrument, or subsequently convert the account, card, or device to a credit card or credit instrument.</li> </ol> |
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1. If a school fails to obtain a student's consent, the school must have an alternative means of ensuring the student has access to his or her FSA credit balance within the time allowed by regulations, and at no cost to the student.

## Stored-Value and Prepaid Debit Cards (DCL GEN 05-16 as modified by 34 CFR 668.164()(3))

A stored-value card is a prepaid debit card that can be used to withdraw cash from an automated teller machine (ATM) or to purchase goods from a merchant. We distinguish a stored-value card from a traditional debit card in this discussion by defining a stored-value card as not being linked to a checking or savings account.

Typically, a school enters into an agreement with a bank under which the bank issues stored-value cards directly to students identified by the school. In a payroll or credit balance transaction, the school electronically transfers funds to the bank on behalf of a student and the bank makes those funds available to the student by increasing the value of the card. Since the funds are transferred from the school's account to the bank, so long as the school cannot recall those funds to pay other charges for the student without the student's written permission, the transaction would be equivalent to paying the funds directly to the student.

Under the following conditions, a school may use stored-value cards as a way to make direct payments to students (such as credit balances and Federal Work Study (FWS) wages).

1. A school must obtain a student's authorization to use a stored-value card for paying FWS wages.
2. The value of the card must be convertible to cash (e.g., a student must be able to use it at an ATM to make a cash withdrawal). In some cases, the cards are branded with the VISA or MasterCard logo, so the card may also be used to buy goods and services. We would not expect a school to limit the use of the card to specific vendors.
3. A student should not incur any fees for using the card to withdraw the disbursement from ATMs of the issuing bank or credit union.
4. In order for the disbursements to the stored-value card to be treated as payments made to a student, a school cannot make any claims against the funds on the card without the written permission of the student, except to correct an error in transferring the funds to the bank under existing banking rules.
5. Since the stored-value card is being set up to disburse Federal Student Aid funds to a student, the account should not be marketed or portrayed as a credit card account and should not be structured to be converted into a credit card at any time after it is issued.
6. In order for the disbursements to the stored-value card to be treated as payments made to a student, a school cannot make any claims against the funds on the card without the written permission of the student, except to correct an error in transferring the funds to the bank under existing banking rules.
7. Since the stored-value card is being set up to disburse Federal Student Aid funds to a student, the account should not be marketed or portrayed as a credit card account and should not be structured to be converted into a credit card at any time after it is issued.

So long as ATMs from the issuing bank are conveniently located for a student, it would appear to be reasonable for a fee to be charged if the student chooses to use an ATM that is not affiliated with the issuing bank.

A bank may wish to use its relationship with a student to offer other banking services such as checking accounts, savings accounts, or credit cards, but those should not link to the stored-value card account.

4. A student should not be charged by either a school or the affiliated bank for issuing a stored-value card, but it would be reasonable if a student was charged for a replacement card.
5. In order to minimize any risks with disbursing funds to a stored-value card account set up for a student, the account at the bank or credit union must be Federal Deposit Insurance Corporation (FDIC) or National Credit Union Share Insurance Fund (NCUSIF) insured. This means that there has to be an individual account for each student that is FDIC or NCUSAIF insured.
8. A school must inform a student of any terms and conditions associated with accepting and using the stored-value card.
9. A school must ensure that its stored-value card process meets all regulatory time frames. (For example, a student must have access via the card to any credit balance within the 14-day time frames in 34 CFR 668.164, or to any FWS wages at least once per month.)<sup>1</sup>
10. A student's access to the funds on the stored-value card should not be conditioned upon the student's continued enrollment, academic status or financial standing with the institution.

1. If a school fails to obtain a student's authorization, the school must have an alternative means of ensuring the student has access to his or her FSA credit balance within the time allowed by regulations, and at no cost to the student.

### When a school uses third-party servicers to disburse FSA funds

Schools are increasingly changing the way they disburse funds to students by moving away from issuing checks to transferring funds electronically. In response to this trend, several companies are offering services that include:

- obtaining the student’s authorization to perform electronic transfers;
- transferring the funds electronically to the student’s bank account;
- opening a bank account for the student; and
- issuing debit cards in conjunction with a participating bank.

Companies that contract with schools to provide these types of services in some instances become third-party servicers.

Additionally, in the contract between the school and the servicer, both parties must agree to comply with all statutory and regulatory provisions governing the FSA programs, and agree to be jointly and severally liable for any violation by the servicer of these provisions. Also, unless a third-party servicer has only one client, the servicer must submit an annual audit of the activities it performs on behalf of the school to the Department.

A third-party servicer is an entity that contracts with a school to administer any aspect of its FSA programs. Thus, if a school contracts with a company to perform activities that are the school’s responsibilities under the FSA programs, the company is a third-party servicer.

So long as a school cannot recall or receive a payment from an student or parent account, the Department considers the electronic transfer of funds to a bank account a servicer opens on behalf of a student to be the equivalent of a school’s transfer of funds to a student’s account and the equivalent of making a direct payment to a student.

### Schools are ultimately responsible

A school that enters into a contract with a third-party servicer to provide debit, demand or smart cards through which Title IV credit balances are paid to students must have a system to ensure compliance with all regulatory timeframes including having access to any credit balance within the 14-days, and to any FWS wages at least once per month.

## Important

### Additional elements of a third-party agreement

34 CFR 668.25(c).

### Third-party servicer audits

34 CFR 668.23(c)

**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.

*School-issued stored-value cards*

When a school pays an FSA credit balance to a student by making those funds available through a **school-issued** stored-value card **over which the school exercises control**, the school is, in effect, holding a student's FSA credit balance. Therefore, all of the conditions on holding credit balances apply.

*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 cannot 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 borrower's loan balance.

**Important**

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.

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#### **Power of attorney**

Perkins: 34 CFR 674.16(h)

FWS: 34 CFR 675.16(d)

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

## CHECKING ELIGIBILITY AT THE TIME OF DISBURSEMENT

### Interim disbursements to students selected for verification

A school can make an interim disbursement of certain types of FSA funds to a student who is selected for verification (including a student selected for verification by the school rather than the CPS). If the school has any conflicting documentation or other reason to believe that it does not have a valid output document, it may not 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. However, a school must not disburse FFEL/Direct funds to a student on a leave of absence.

Because FSA credit balance funds are funds that have already been disbursed, a school must pay an FSA credit balance to a student on leave of absence in accordance with 34 CFR 682.604(c)(4).

### Liability for incorrect payments

A school 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.

Before you awarded funds to a student, you confirmed that he or she was an eligible student and was making satisfactory academic progress (See *Volume 1, Student Eligibility*). However, before disbursing FSA funds, you must determine and document that a student remains eligible to receive them. That is, you must confirm that:

- the student is enrolled for classes for the period;
- a student enrolled in a non-term program has completed the previous period (credits and weeks or clock hours and weeks of instruction);
- if the disbursement occurs on or after the first day of classes, that the student has begun attendance;
- for FFEL and DL loans, the student is enrolled at least half time;
- for all ACG Grants, the student is enrolled full time;
- for second year ACG Grants, at the end of the first academic year, the student has at least a 3.0 cumulative GPA on a 4.0 scale; and
- for National SMART Grants, the student –
  - a) is enrolled full time;
  - b) has at least a 3.0 cumulative GPA on a 4.0 scale, and
  - c) is enrolled and taking at least one course in an eligible major.

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.

## Summary of Recent Changes to FSA Disbursement Requirements

The Cash Management Regulations now specify that a school must disburse all Title IV grant and loan funds on a payment period basis. For all types of programs, FSA funds are now disbursed using the payment period definitions in 34 CFR 668.4.

In the new regulations, the calendar midpoint is no longer used as a threshold that students need to reach in order to receive second disbursements of Title IV funds. The payment period definitions now divide nonstandard term credit hour programs into the following categories:

1. For standard term-based programs and nonstandard term credit hour programs with terms that are substantially equal in length the payment period for all Title IV grant and loan funds is the academic term.
2. For nonstandard term credit-hour programs with terms that are not substantially equal in length there are now two sets of payment periods – one for Title IV grant and Perkins Loan funds, and one for FFEL and Direct Loan funds.
3. In Nonterm credit-hour programs and clock hour programs, a student now becomes eligible to receive a second disbursement of FSA grant and loan funds (including FFEL and Direct Loan funds) when the student successfully completes half of the weeks of instructional time **and** half the credit hours/clock hours in the academic year/program.
  - The added time component is a new requirement for second disbursements of FSA grant and Perkins Loan funds to students enrolled in for clock hour programs.
  - A school may no longer elect to have more than two payment periods for nonterm and clock hour programs.

**Note:** As you begin implementing the new disbursement rules, remember that you must apply these rules whenever you establish payment periods for students in any program that begins a new academic year on or after July 1, 2008, and when you set loan disbursements for any loan period that begins or after July 1, 2008.

For a complete discussion of the new payment period requirements, see *Volume 3 – Calculating Awards and Packaging*.

### Disbursement timing citations

Disbursement by payment period:

34 CFR 668.164(b)

Section 428G(a) of the HEA

Disbursement by calendar midpoint:

34 CFR 682.604(c)

Early disbursements: 34 CFR 668.164(f)

30-day delay for 1st-time Stafford

borrowers

FFEL: 34 CFR 682.604(c)(5)

DL: 34 CFR 685.303(b)(4)

### 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)

Terms are substantially equal in length if no term in the program is more than two weeks of instructional time longer than any other term in the program.

### Multiple disbursements within a payment period

When scheduling loan disbursements, for standard term programs and nonstandard term credit hour programs with terms that are substantially equal in length, schools can request multiple disbursements of a loan within a payment period or loan period, as long as the disbursements are substantially equal (Section 428G(c)(3) of the HEA).

A school may not elect to have more than two payment periods per loan for its nonterm and clock hour programs. However, as long as the disbursements in a loan period are substantially equal, the school may schedule multiple disbursements within a payment period.

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.

<b>Disbursement by Payment Period Required</b> (except as provided in the discussion following this chart)		
<b>Program Type</b>	<b>FFEL and Direct Loan</b>	<b>Pell Grant, ACG, National SMART Grant, FSEOG and Perkins Loan</b>
Credit-hour programs offered in standard terms & nonstandard term programs offered in terms that are substantially equal in length.	Term	Term
Credit-hour programs offered in nonstandard-terms that are not substantially equal in length. <sup>2</sup>	The payment period is the <b>successful completion</b> <sup>1</sup> of: <ul style="list-style-type: none"> <li>• half of the weeks of instructional time in the academic year/program less than an academic year; <b>and</b></li> <li>• half of the credit hours in the academic year/program less than an academic year</li> </ul> For the remainder of a program equal to or less than ½ an academic year, the payment period is the remainder of the program.	Term
Clock-hour programs and nonterm credit-hour programs.	The payment period is the <b>successful completion</b> <sup>1</sup> of: <ul style="list-style-type: none"> <li>• half of the weeks of instructional time in the academic year/program less than an academic year; <b>and</b></li> <li>• half of the clock/credit hours in the academic year/program less than an academic year</li> </ul> For the remainder of a program equal to or less than ½ an academic year, the payment period is the remainder of the program.	The payment period is the <b>successful completion</b> <sup>1</sup> of: <ul style="list-style-type: none"> <li>• half of the weeks of instructional time in the academic year/program less than an academic year; <b>and</b></li> <li>• half of the clock/credit hours in the academic year/program less than an academic year</li> </ul> For the remainder of a program equal to or less than ½ an academic year, the payment period is the remainder of the program.

<sup>1</sup> *Successful completion* means that the student has earned a passing grade or otherwise received credit for the credits or clock hours in the payment period.

<sup>2</sup> If a program is offered in a combination of standard and nonstandard terms and the program does not qualify to use a "SAY," then for FFEL and Direct Loan purposes, the program is subject to the disbursement requirements that apply to nonstandard programs that are not substantially equal in length.

### *FFEL/DL Disbursements within a single term/payment period*

Unless it qualifies for the special rule based on low cohort default rates (see below), a school must generally make two disbursements of a FFEL or Direct Loan that is certified for a single term or a single payment period:

1. For **credit-hour programs offered in standard terms or nonstandard terms that are substantially equal in length with no term less than 9 weeks of instructional time in length**, the second disbursement may not be paid until the calendar midpoint between the first and last scheduled days of class in the loan period.
2. For **clock-hour and nonterm credit-hour programs and nonstandard term programs with terms that are not substantially equal or with terms that are substantially equal and less than 9 weeks of instructional time in length**, for a remainder of a program equal to or less than ½ an academic year, the second disbursement may not be paid until the student successfully completes ½ of the weeks of instructional time in the payment period; and ½ of the clock or credit hours in the payment period.

**Special rule:** Schools with cohort default rates of less than 10% for each of the 3 most recent fiscal years for which data are available, may disburse, in a single installment, loans that are made for – 1 semester, 1 trimester, 1 quarter or loans made for a 4-month period or less for one nonstandard or nonterm loan period. Note that a program offered in substantially equal terms at least nine weeks in length may not disburse in a single installment for a term if the term is longer than four months. (In the case of loans made to students in study abroad programs, the home school's default rate must be less than 5% for the most recent fiscal year for which data are available to qualify for this special rule.)

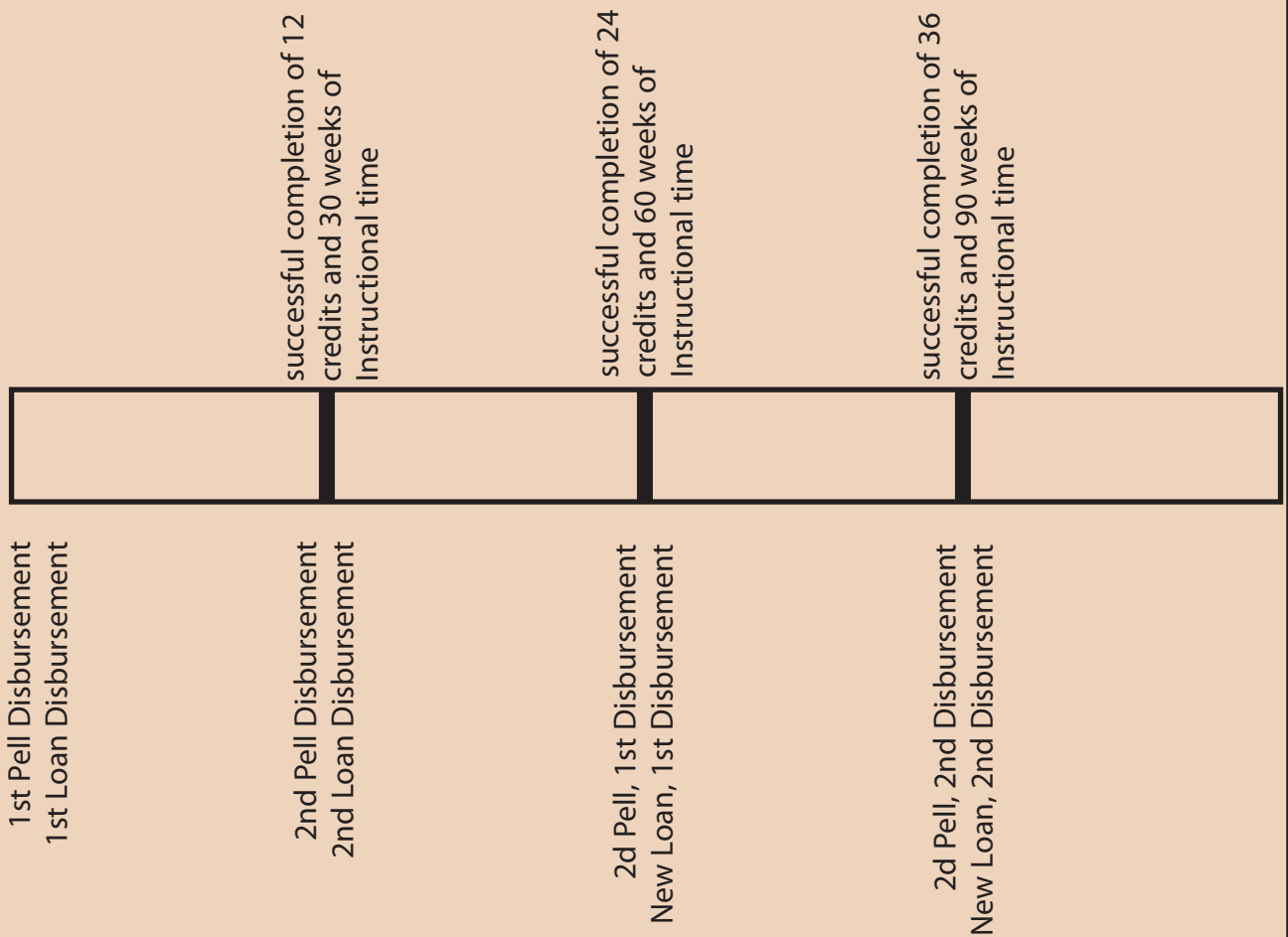
### *Pell/ACG/National SMART disbursements within a single term*

If a school uses Formula 3 to calculate a Pell Grant, ACG, or National SMART Grant, the student's total payment for a payment period may exceed 50% of the student's annual award. However, the disbursements of the student's Pell Grant, ACG, or National SMART Grant in the payment period cannot exceed 50% of the student's annual award until the student completes in the payment period at least ½ the weeks of instructional time in the academic year.

## Example of New Disbursement Rules for a Student Enrolled in a Non term Program Attending Half-time

The illustration shows the disbursements for a student enrolled half time in a program of 48 credits that a full-time student completes in 60 weeks of instructional time. For this program, the school has defined the academic year as 24 credits and 30 weeks of instructional time.

Under the amended regulations, this half-time student would receive second disbursements after completing half of the credit hours **AND** half of the weeks of instructional time in the academic year. Because the student in the example is a half-time student, it takes the student 30 weeks of instructional time to successfully complete 12 credit hours. The student is eligible for a new loan and a new Pell Grant once the student has successfully completed 24 credit hours and 60 weeks.



## TIMING OF DISBURSEMENTS

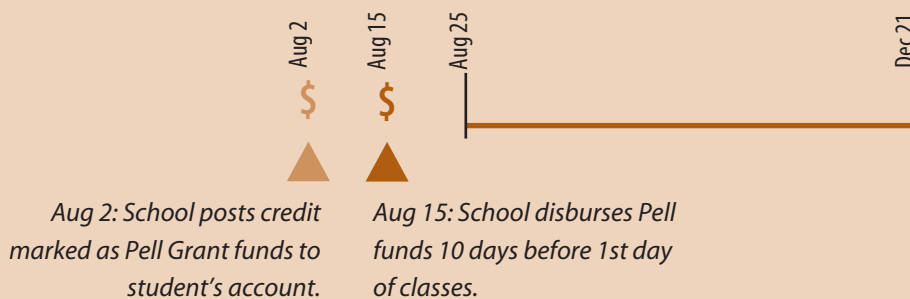
We've already described how disbursements are calculated in *Volume 3*; now we'll discuss the timing of disbursements. The timing of disbursements is especially important for Pell, ACG, and National SMART Grant and Stafford/PLUS loan funds, because you must schedule disbursement dates with the Department 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 and delayed disbursements*

In general, the earliest that a school may disburse FSA funds by crediting the student's account or by paying 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 programs 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. This limitation is also applicable to FFEL and DL disbursements in credit-hour programs with non-standard terms that are not substantially equal in length. In some cases, as we'll discuss, other restrictions apply.

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.

### 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.

Note that if a student is scheduled to begin class in a module that starts after the first day of classes for the semester, the school may not make the initial disbursement until 10 days before the start of the first module in which the student is scheduled to begin attendance.

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).

## FSA GRANT AND PERKINS LOAN DISBURSEMENTS

### *Disbursements in credit-hour term-based programs*

For a student enrolled in a credit-hour program that uses any type of academic term, for Pell Grant, ACG, National SMART Grant, FSEOG, and Perkins Loan program funds, the payment period is the academic term.

### *Disbursements in clock-hour and non-term programs*

For nonterm programs and clock-hour programs, a student can receive the first disbursement of FSA grant or Perkins loan funds when the student begins the program or academic year. The student becomes eligible to receive a disbursement of FSA grant funds for the second payment period when the student successfully completes half the weeks of instructional time **AND** half the credit hours/clock hours in the academic year or program or the remaining portion of a program that is more than one-half of an academic year but less than a full academic year.

If a school uses Formula 3 to calculate a Pell Grant, ACG, or National SMART Grant, the student's total payment for a payment period may exceed 50% of the student's annual award. However, the disbursements of the student's Pell Grant, ACG, or National SMART Grant in the payment period cannot exceed 50% of the student's annual award until the student completes in the payment period at least  $\frac{1}{2}$  the weeks of instructional time in the academic year. Therefore, a school generally must make at least two disbursements to the student in the payment period if it wishes to make an initial disbursement at the beginning of the payment period.

#### Credit bureau reporting

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

#### Grant disbursements

34 CFR 668.4(a) and (b)(1)  
34 CFR 668.164

#### Frequency of Pell disbursements

34 CFR 690.76

#### Disbursements of ACG and National SMART Grants to students enrolled in self-paced programs

34 CFR 691.75(a)(3)&(e)

#### Maximum disbursement

34 CFR 690.63(f)  
34 CFR 691.63(f)

### ACG and National SMART Disbursements in Self-paced Programs

A self-paced program is an educational program without terms that allows a student – (1) to complete courses without a defined schedule for completing the courses; or (2) at the student's discretion, to begin courses within a program either at any time or on specific dates set by the institution for the beginning of courses without a defined schedule for completing the program.

A school may not make disbursement of ACG, or National SMART Grant funds to a student enrolled in a self-paced credit-hour program without terms or a self-paced clock-hour program until the school has determined that the student is **progressing as a full-time student**. That is, a school may not make a disbursement to a student enrolled in a self-paced program until after the student has completed at least 50% percent of the credit hours or clock hours in the payment period for which the student is being paid at the rate of a full-time student (e.g., completes 8 hours in not more than 8 weeks in a 12-hour 16-week payment period). If a school is unable to determine when a student being paid as a full-time student in a self-paced credit-hour program without terms has completed 50% of the credit hours in the payment period, the school may make the payment when the student has completed **at least 50% of the academic coursework** in the payment period.

**Stafford/PLUS disbursements for standard terms and terms that are substantially equal in length**

34 CFR 668.4(a) and (c)

**Programs without terms, clock-hour programs & terms not substantially equal**

34 CFR 668.4(b), (c), and (h)(1)

**STAFFORD/PLUS DISBURSEMENTS**

*Standard terms and substantially equal nonstandard terms*

If the program uses *standard academic terms* (semesters, trimesters, or quarters) or it has *nonstandard terms of substantially equal length* at least one disbursement must be made in each term in the loan period. A program is considered to have substantially equal terms if no term in the program is more than two weeks of instructional time longer than any other term in the program.

*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 is for an academic year that includes three quarters, 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.

*Clock-hour programs, nonterm credit-hour programs, and programs with non-standard terms that are not substantially equal*

*Loan periods for Stafford/PLUS loans are described in Volume 3, chapter 5.*

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 student has successfully completed half of the coursework **and** half of the weeks of instructional time in the loan period.

The payment period for the remainder of a program less than or equal to one-half of an academic year is the remainder of the program.

When a FFEL or Direct loan is made for one payment period, the loan must be disbursed in two installments, and the second installment may not be disbursed until the student has successfully completed half the number of credit or clock hours as appropriate and half the weeks of instructional time in the payment period.

Entrance counseling is now required for some graduate or professional PLUS Loan borrowers (See *Volume 2*).

**Reminder**

**When we say *successfully completes*, we mean that the student earns a passing grade or otherwise receives credit for the course.**

**Stafford/PLUS multiple disbursements requirement & exceptions**

There are three 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 at: <http://ifap.ed.gov/drmaterials/finalcdrg.html>)
- the cohort default rate exception.

**Cites**

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



### Loan disbursements when credits aren't awarded as work is completed

In some programs, it may not be possible to determine when 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.

If a school is unable to determine when a student has successfully completed half of the credit hours or clock hours in a program, academic year, or remainder of a program, the student is considered to begin the second payment period of the program, academic year, or remainder of a program at the **later of the date**, as determined by the school, on which the student has successfully completed –

- a. Half of the academic coursework in the program, academic year, or remainder of the program; or
- b. Half of the number of weeks of instructional time in the program, academic year, or remainder of the program.

Cite 34 CFR 668.4(c)(3)

### *Exceptions to disbursement rules for schools with low default rates*

Institutions with cohort default rates of less than 10 percent for each of the three most recent fiscal years for which data are available, including eligible foreign institutions, may disburse, in a single installment, loans that are made for one semester, one trimester, one quarter or a four-month period. Such institutions also are not required to delay the delivery or disbursement of a first disbursement of a loan for 30 days for first-time, first-year undergraduate borrowers.

When a school that qualifies for the cohort default rate exemption is offering nonstandard term credit-hour programs with terms not substantially equal in length, nonterm credit hour programs, or clock-hour programs, the payment period, for purposes of FFEL or Direct Loan funds is the loan period for those portions of the program to which the cohort default rate exemption applies. For example, if the loan period for a nonterm credit hour program is three months in length and the institution meets the cohort default rate exemption, that three-month loan period is the payment period and only one disbursement of the loan is required for that period.

#### **Low cohort default rate exemptions**

Section 428G(a)(3) and (b)(1) of the HEA, FFEL 34 CFR 682.604(c)(10), DL 34 CFR 685.301(b)(8)

#### **The payment period is the loan period to which the exemption applies**

34 CFR 668.4(d)

### **When students whose home schools are low default rate schools are enrolled in study abroad programs**

A school can make a loan disbursement to a first-year borrower within the normal time frame (without waiting 30 days) if the borrower is enrolled in a study-abroad program approved for credit by the home school and the home school had a Stafford loan default rate of less than 5% in the single most recent fiscal year for which data is available (34 CFR 682.604(c)(5)(ii) and 34 CFR 685.303(b)(4)(i)(B)) .

A school (including an eligible foreign school) can make a loan disbursement to a first-time, first-year borrower within the normal time frame (without waiting 30 days) if the school had a Stafford loan default rate less than 10% in the three most recent fiscal years for which data is available (34 CFR 682.604(c)(5)(i) and 34 CFR 685.303(b)(4)(i)(a)).

If a borrower is enrolled in a study-abroad program approved for credit by the home school and the home school had a Stafford loan default rate less than 5% in the single most recent fiscal year for which data is available, AND the loan is for one semester, one trimester, one quarter or a four-month period, the school may make a single disbursement of the loan proceeds (34 CFR 682.604(c)(10)(ii) and 34 CFR 685.301(b)(8)(i)(B)).

In addition, if a borrower is enrolled at a school that had a Stafford loan default rate less than 10% for the three most recent fiscal years for which data is available AND the loan is for one semester, one trimester, one quarter or a four-month period, the school may make a single disbursement of the loan proceeds (34 CFR 682.604(c)(10) and 34 CFR 685.301(b)(8)(i)(A)).

If a borrower is enrolled in a study-abroad program approved for credit by the home school and the **borrower** requests it, after the lender or guarantee agency has verified the borrower's enrollment, the lender may disburse a Stafford loan directly to the borrower (34 CFR 668.207(b)(1)(v)(C)(1)).

If a borrower is enrolled at an eligible foreign school and the foreign school requests it, after the lender or guarantee agency has verified the borrower's enrollment, the lender may disburse a Stafford loan directly to the student (34 CFR 682.207(b)(1)(v)(D)).

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

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

Note: Effective February 8, 2006, eligible foreign schools are no longer exempt from making multiple disbursements of Title IV loan proceeds.

### *Special rules for Pell and FSEOG Disbursements to students in correspondence courses*

Generally, Federal Pell Grant Program and FSEOG Program disbursements can be made up to 10 days before the first day of classes for a payment period. However, there are special rules for students enrolled in correspondence study programs.

#### **FSEOG Program**

A correspondence student must submit his or her first completed lesson before receiving an FSEOG payment.

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#### **FSEOG Program disbursements**

34 CFR 676.16(f)

#### **Federal Pell Grant Program**

For a non-term-based correspondence portion of a program of study the school must make the –

- first payment to a student for an academic year after the student submits 25% of the lessons, or otherwise completes 25% of the work scheduled for the program or the academic year, whichever occurs last; and
- second payment after the student submits 75% of the lessons, or otherwise completes 75% of the work scheduled for the program or the academic year, whichever occurs last.

For a term-based correspondence portion of a program of study the school must make the payment to a student for a payment period after the student completes 50% of the lessons or otherwise completes 50% of the work scheduled for the term, whichever occurs later.

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#### **Federal Pell Grant Program disbursements**

34 CFR 690.66

### *Timing of Pell, ACG, and National SMART Grant disbursements within a payment period*

You may time the disbursement of Pell, ACG, and National SMART Grant 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 voluntary written authorization.)

**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 determine the initial payment (\$650=\$300+\$350). The remaining amount (\$350) is then disbursed during the second payment period for a total loan of \$1,000.

*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.

However, 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. Note that on November 1, 2007, the Department published regulations that eliminated the option disbursing an FSEOG award of less than \$501 in one payment. (FR Vol. 72, No. 211, Part III).

*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, first-year borrower and the school does not meet the requirements for a waiver in 34 CFR 682.604(c)(5) and 34 CFR 685.303(b)(4).)

For example, if the student is enrolled in the first semester (running from September 1, 2005 to December 14, 2005) 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 for the third module begins to disburse the funds.

*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, in the case of a Pell Grant, 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. (See the discussion under Late Disbursements for disbursing funds to students who have lost eligibility.)

If you are paying a Pell grant for a completed term in which no Pell disbursement has been made, the **Pell grant must be 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 that have not converted to "F" grades because the student failed to complete the course work. (This Pell requirement does not apply to any other FSA program.)

**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.

## PROMPT DISBURSEMENT RULES-

In general, schools that are not receiving federal cash from the Department through one of the heightened cash monitoring payment methods must make disbursements as soon as administratively feasible but no later than 3 business days after receiving funds from the Department. (For a discussion of payment methods, see *chapter 3*.) The disbursements may be credited to the student's account or made directly to the student or parent, as discussed earlier. There is a similar requirement for schools receiving FFEL funds.

Note that these timeframes 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.

**Note:** Excess cash is discussed in chapter 3.

### Submitting Disbursement Records

An institution must submit Federal Pell Grant, ACG, National SMART Grant and Direct Loan disbursement records no later than 30 days after making a disbursement or becoming aware of the need to adjust a student's disbursement.

An institution's failure to submit disbursement records within the required 30-day timeframe may result in an audit or program review finding. In addition, the Department may initiate an adverse action, such as a fine or other penalty for such failure.

## DISBURSING FWS WAGES

A school cannot require a student to open a bank account. Therefore, a school cannot require a student to receive his or her earned FWS wages by EFT. Moreover, a school may not only employ students in its FWS program that have bank accounts.

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.

### Paying FWS wages

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

### 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.

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) showing 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.

## 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 credits or clock hours and weeks of instructional time in the prior 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 the second half of the loan proceeds until the student completes half of the weeks of instructional time in the academic year (or program if less than an academic year), **and** half of the credit hours in the academic year (or program if less than an academic year). 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 nonstandard 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 student completes half of the weeks of instructional time in the academic year (or program if less than an academic year), **and** half of the credit hours in the academic year (or program if less than an academic year). 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 in 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 Stafford 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)(3)

### 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 cannot 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 or 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 successfully 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.

### *Excused absences*

In a clock-hour program, you are 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-clock-hour payment periods might miss 20 clock hours and only have attended 430 clock hours at the point where 450 clock 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.

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.

## RETAKING COURSEWORK

### *Term-based credit-hour programs*

In general, students at term-based credit-hour schools may receive FSA funds for retaking coursework and the credits may be included in the total number of credits that the student is taking when determining enrollment status as long as he or she is considered to be making satisfactory academic progress and as long as the school is allowing the student to receive credit for the repeated course. Generally, schools do not give a student credit for repeating a course to earn a better grade unless the student failed the course the first time and received no credit.

If a student who received an incomplete in a course in the prior term is completing the coursework in the subsequent term to erase the incomplete in the prior term, the student is not considered to be enrolled in the course for the subsequent term. Therefore, the hours in the course do not count toward the student's enrollment status for the subsequent term, and the student may not receive FSA funds for retaking the course.

However, if a student who received an incomplete in a course in the prior term is retaking the entire course for credit in the subsequent term, the hours in the course count toward the student's enrollment status and the student may receive FSA funds for retaking the course.

For satisfactory academic progress purposes, each time a course is taken counts as an attempt; only the first time a passing grade is received is counted as a completion.



## *Clock-hour and nonterm credit-hour programs*

### **Withdrawal and reentry within 180 days**

When a student withdraws from a clock-hour program or nonterm credit-hour program during a payment period or period of enrollment and then reenters the same program within 180 days, the student is put back into the same payment period, and any FSA funds that the school or student returned to FSA are repaid to the student. A student who ceases attendance but returns within 180 days may not be paid for repeating coursework.

### **Withdrawal and reentry after 180 days**

A student who withdraws from a clock-hour program or nonterm credit-hour program and then reenters the same program after 180 days is treated in the same manner as a student who transfers into the program from another school; i.e., the student immediately begins a new payment period or period of enrollment. In this circumstance, the student may be paid for repeating coursework if the student is receiving credit for the repeating the course.

Take, for example, a student who withdraws after completing 302 clock hours of a 900-clock-hour program, so there are 148 hours in the payment period that the student did not complete. The student reenrolls after 180 days in the same program and receives credit for 100 hours. The program length for purposes of determining the new payment periods and period of enrollment is 800 clock hours (the remainder of the student's program), so the new payment periods are 400 hours and 400 hours. The FSA payments would be for 400 hours for both payment periods, not limited to 148 hours for a payment period. If the student in this example received no credit for previously completed hours, the student's program length for purposes of determining the payment periods would be 900 clock hours.

### **Repeating after program completion**

Any student who completes an entire nonterm credit-hour or clock-hour program, and later reenrolls to take that same program again or to take another program may be paid for repeating coursework regardless of the amount of time between completion of the first program and beginning the program or another program again.

#### **Pell Grant Disbursements for Reentering Students**

Grant disbursements in the award year, if a student enrolled in a clock-hour or nonterm credit-hour educational program reenters the institution within 180 days after initially withdrawing and a deadline set by the Secretary in the Federal Register (September 15, 2006 for the 2005-2006 award year), an institution may request administrative relief to disburse the student's Pell Grant by the earlier of 30 days after the student reenrolls or a deadline set by the Secretary in the Federal Register (May 1, 2007 for the 2005-2006 award year).

For more information on the treatment of FSA funds when a student reenters a program, including the effect on awarding FSA funds, see *Volume 5, chapter 2*.

**Late disbursements**

34 CFR 668.164(g)

**SAR documenting eligibility for late disbursement**

In some cases the student may have a SAR/ISIR with an official EFC processed while the student is enrolled, but the school is not listed. When the school receives an ISIR listing the school after the student ceases to be enrolled, it will have a processing date subsequent to the date the student ceases to be enrolled. In this circumstance the student's eligibility is documented by obtaining a copy of the SAR processed while the student was enrolled and eligible.

**Processed Date**

The applicable dates on an ISIR or SAR that are the processing dates for purposes of determining eligibility for a late disbursement are: for an ISIR, the field labeled *Processed Date*; for a SAR, the date above the EFC on the first page; and for a SAR Acknowledgment, the date labeled "transaction process date" in the School Use box.

**Pell, ACG, and National SMART Grant disbursements**

If a school receives a valid SAR or valid ISIR within the applicable deadlines, it must disburse the student's Pell, ACG, or National SMART Grant.

**Cite**  
34 CFR 690.61(a) & 34 CFR 691.61(a)

**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 where 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.).

**LATE DISBURSEMENTS**

Generally, an otherwise eligible student or parent becomes ineligible to receive FSA funds on the date that the student:

- for a loan made under the FFEL or Direct Loan program, is no longer enrolled at least half time; or
- for purposes of the Pell Grant, ACG and National SMART Grant, FSEOG, and Perkins Loan programs, the student is no longer enrolled at the school for the **award year**.

However, if certain conditions are met, students must be considered for a disbursement after the date they became ineligible. These disbursements are called "late disbursements."

*Conditions for a late disbursement*

A student must 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. Therefore, a school must review its records to see if a student who did not receive a disbursement of FSA funds before becoming ineligible is eligible for a late disbursement. Generally, this condition is easy for a school to document, since each ISIR record includes the date the Department processed the application and created the SAR/ISIR. In addition, for an FFEL or Direct Loan program loan, the loan must be certified or originated, as applicable, prior to the date the student became ineligible. Similarly, for an FSEOG or a Federal Perkins Loan, the school must have made the award to the student prior to the date the student became ineligible.

*Late disbursements that must be made vs. late disbursements that may be made*

If a student who qualifies for a late disbursement completes the payment period or period of enrollment, or withdraws during the payment period or period of enrollment, a school **must** make or offer as appropriate, the late disbursement. A late disbursement for a student who has withdrawn during the payment period or period of enrollment is called a Post-withdrawal disbursement.

If a student did not withdraw or complete the payment period or period of enrollment 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.

A student who withdraws and subsequently signs a promissory note in time for the institution to include the loan funds in the Return of Title IV Aid calculation may receive a late (post withdrawal) disbursement of the applicable amount of his or her loan funds (see *Volume 5* for more information). In addition, a student who loses eligibility for a reason other than his or her withdrawal and subsequently signs a promissory note may receive a late disbursement of the applicable amount of his or her loan funds.

If a student's enrollment status for an ACG or National SMART Grant was full-time on the date the student ceased to be enrolled, the school may make a late disbursement.

### *Limitations on making a late disbursement*

The regulations prohibit a school from making a late disbursement in certain situations, even if a student otherwise meets the conditions for a late disbursement. An institution is prohibited from making:

- a late second or subsequent disbursement of FFEL or Direct Loan funds unless the student has graduated or successfully completed the loan period (34 CFR 668.164(g)(4)(ii));
- a late disbursement of FFEL or Direct Loan funds 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)) (unless the school meets the requirements for a waiver in 34 CFR 688.604(c) (5) and 34 CFR 685.303(b)(4)); and
- a late disbursement of Federal Pell Grant, ACG or National SMART Grant funds to a student for whom the school did not have a valid SAR/ISIR by the deadline established by ED.
- a late disbursement of an ACG or National SMART Grant if a student's enrollment status for an ACG or National SMART Grant was not full-time on the date the student ceased to be enrolled.

In addition, a school may not make a late disbursement later than 180 days after the date the student becomes ineligible. (Note that 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 180 days of the date the student became ineligible.)

On November 1, 2007, the Department published regulations that eliminated the provision under which a school could request a late, late disbursement effective July 1, 2008.

#### **Paying or offering amounts not credited to a student's account**

A student or parent is never required to accept a late disbursement payment. For example, a student may decline a late disbursement of a loan to avoid taking on debt. In cases where a late disbursement is declined, a school has met the late disbursement requirements by offering the late disbursement funds.

#### **Post-withdrawal disbursements**

A post-withdrawal disbursement, a type of late disbursement, is Title IV aid that was not disbursed before a student withdrew, but which the student has earned based on a Return of Title IV Funds calculation. The conditions and limitations for a post-withdrawal disbursement are the same as for all other late disbursements. However, the requirements for paying a Post-withdrawal disbursement are made in accordance with the regulations.

**Cite**  
34 CFR 668.22(a)(4).

#### **ACG/National SMART Grant Enrollment Status**

To be considered full-time at the time a student ceases to be enrolled, the student must have begun attendance in all the classes necessary to qualify as a full-time student and be considered full-time in accordance with the school's enrollment status policies for the Pell Grant, ACG, and National SMART Grant programs.

**Cite**  
34 CFR 691.80(b)



**Important**

### Conditions and Limitations on Late Disbursements

<b>These Conditions Must Be Met Before a Student Loses Eligibility in Order for the Student to Receive a Late Disbursement (34 CFR 668.164(g)(2))</b>		
Program		
Pell Grant <sup>1</sup>	For all Programs, the Department processed a SAR/ISIR with an Official EFC.	No additional requirements.
FSEOG		Student is awarded a grant.
FFEL		A loan application is certified.
Direct Loans		An loan record is originated.
Perkins Loans		Student is awarded the loan.
<b>These Additional Limitations Must Be Satisfied Before a School May Make a Late Disbursement (34 CFR 668.164(g)(4))<sup>2</sup></b>		
Program		
Pell Grant <sup>1</sup>	School received a valid SAR/ISIR by the date established by ED.	
FSEOG	No additional limitations.	
FFEL	1 For a first-time, first-year borrower, student completed 30 days of the program. (Subject to waivers discussed earlier under <i>Timing of Disbursements</i> .)  2 For a second disbursement, student graduated or completed the period for which the loan was intended.	
Direct Loans		
Perkins Loans	No additional limitations.	

<sup>1</sup> Within this chart, ‘Pell Grant’ includes ACG and National SMART Grants.

<sup>2</sup> For all programs, unless approved by ED, the late disbursement is made no later than 180 days after the date of the institution’s determination that the student withdrew. Or, for a student who did not withdraw, 180 days after the student became ineligible.

### *Paying a late disbursement*

If a student has completed the payment period or period of enrollment, a school must pay or offer the late disbursement to the student or parent.

For a post-withdrawal disbursement to a student who withdrew during a payment period or period of enrollment, a school must follow the rules for paying and/or offering a Post-withdrawal disbursement in regulations governing the Return of Title IV Funds (see *Volume 5*).

If a school chooses to make a late disbursement of an FFEL or Direct Loan to a student who ceases to be enrolled as at least a half-time student, the school determines the amount of the late disbursement of the FFEL or Direct Loan it will offer the student by determining the educational costs the student incurred for the period of instruction during which the student was enrolled at least half time.

A school must contact a student prior to making ANY late disbursement of Title IV loan funds, and explain to the student his or her obligation to repay the loan funds if they are disbursed. The information provided in this notification must include the information necessary for the student or parent to make an informed decision about whether the student or parent would like to accept any disbursement of the loan funds. In addition, the school must confirm that the loan funds are still needed by the student, and that the student wishes the school to make the disbursement.

A school is permitted to credit a student's account with a late disbursement of Title IV grant funds without the student's permission for current charges for tuition, fees and room and board (if the student contracts with the school) up to the amount of outstanding charges. An institution must obtain a student's authorization to credit a student's account with Title IV grant funds for charges other than current charges.

If a student due a late disbursement of Title IV grant funds has no outstanding charges on his or her account, or if grant funds remain to be disbursed from a late disbursement after the outstanding charges on the student's account have been satisfied, the school must pay the grant funds directly to the student within 14 days. If a student due a late disbursement of Title IV funds has a credit balance composed of FSA loan funds, the school must offer the funds in writing to the student, and may not disburse the funds directly to the student without first having obtained the student's authorization.

#### **Flexibility in contacting students**

In order to avoid having to contact a student multiple times, a school may use one contact to –

- counsel a borrower about his or her loan repayment obligations;
- obtain permission to credit loan funds to a student's account to cover unpaid institutional charges;
- obtain permission to make a late disbursement of grant or loan funds for other than institutional charges;
- obtain permission to make a late disbursement of grant or loan funds directly to a student; and
- confirm that a student wishes the school to receive as a direct disbursement any grant or loan funds the student is due as a late disbursement.

A student's response to an offer of Title IV funds from late disbursement does not have to be in writing. However, a school must document the student's response.



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# Requesting and Managing Federal Student Aid Funds

## CHAPTER 3

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

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### DRAWING DOWN FEDERAL STUDENT AID FUNDS

#### **Current Funding Level & GAPS**

A school's Authorization (Current Funding Level (CFL) in Pell, ACG, National SMART Grant, and DL) is the level of funding for a school for the year in question. A school's available balance is the amount of cash available for a school to draw down from the Grants Administration and Payments System (GAPS). A separate Authorization is maintained for each program by award year. 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.

**Note:** Beginning with the 2008-2009 award year schools will not receive an initial CFL for the ACG and National SMART Grant programs. For the ACG and National SMART Grant programs only when a school submits *accepted actual disbursements* will the school's CFL increase.



GAPS is a delivery system that supports program award and payment administration (see sidebar for Web and contact information). 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.

#### **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.

### Funding methods

Currently, there are four funding methods under which a school requests funds from the Department:

- 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 a school uses to request FSA program funds.

Cite: 34 CFR 668.162, except as noted

### Self-assessment tool for fiscal management procedures

You can evaluate your school's procedures by referring to "Fiscal Management" in the *Managing Funds* module of FSA Assessments.

<http://ifap.ed.gov/qamodule/FiscalManagement/FiscalManagementModule.html>

### Advance requests for Perkins funds

Before requesting funds from its Perkins FCC, a school should compare its anticipated available Perkins funds (cash on hand + expected collections + expected interest + expected reimbursements for cancellations) against its anticipated Perkins disbursements. A school should take into account all sources of Perkins funds when determining whether it needs to draw down any additional amounts to cover disbursement.

### Pushed Cash

For Direct Loans, a school may receive funds under the Pushed Cash method, a form of the advance payment method. The Department automatically deposits cash in the school's bank account based on disbursements that are submitted timely and accepted. Under the Pushed Cash method, the Department accepts a disbursement for a student only after accepting an origination and Master Promissory Note for that student. For further information see the *2008-2009 Common Origination and Disbursement (COD) Technical Reference*.

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

As currently implemented by the Department in the Federal Pell Grant Program, under the Just-in-Time payment method, 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 school disburses funds to a student. 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 determination 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).

### Reimbursement & cash monitoring payment methods

Under these payment 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 payment method

The Department places a school on reimbursement if it determines there is a need to monitor strictly the school's participation in the FSA programs. The school must first disburse Pell Grant, ACG, national SMART Grant, Direct Loan and Campus-Based program funds to eligible students and parents before it can request those funds from the Department. As part of its request, the school must:

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

The school's reimbursement request is approved if the Department determines that each student and parent included in the request was eligible for, and received, the proper type and amount of FSA program funds. After the reimbursement request is approved, the Department transfers electronically the appropriate amount of FSA funds to the bank account in which the school maintains its federal funds.

## Cash monitoring payment method

The cash monitoring payment method works the same way as the reimbursement payment method – a school must first make disbursements to eligible students and parents before requesting FSA funds – but has less onerous documentation requirements. Unlike the reimbursement payment method where a school must provide detailed documentation for each student to whom it made a disbursement, the Department may relax the documentation requirements and provide funds to a school in one of two ways:

1. **Heightened Cash Monitoring 1 (HCM1).** After a school makes disbursements to eligible students, it draws down FSA funds to cover those disbursements in the same way as a school on the advance payment method.
2. **Heightened Cash Monitoring 2 (HCM2).** After a school makes disbursements to eligible students, it submits only the documentation specified by the Department. The Department may tailor the documentation requirements for schools on a case-by-case basis.

If the Department determines that a school should be placed on reimbursement, HCM1 or HCM2, it notifies the school. In the notice, the Department explains why it is taking this action, describes how the payment method works, identifies the documentation (if any) that the school must submit, and may provide other instructions to the school.

In addition, if a school is placed on reimbursement, HCM1 or HCM2 either because it is not financially responsible, or qualifies as a financially responsible school under the Zone Alternative in 34 CFR 668.175(d), its administration of the reimbursement or cash monitoring payment method must be audited every year. The independent auditor engaged by the school to conduct its annual compliance audit must express an opinion in the audit report regarding the school's compliance with the reimbursement or cash monitoring requirements, as applicable.

## Limitations on the use of FFEL funds for schools on reimbursement or cash monitoring

A school that is placed on reimbursement or cash monitoring:

- 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 this 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 of the additional time it takes the Department to review documentation submitted by the school, the school may delay returning for 30 days FFEL Program funds that were provided by a lender via EFT or master check.

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

## MAINTAINING AND ACCOUNTING FOR FUNDS

All schools must maintain a bank account into which the Department transfers, or the school deposits, FSA program funds. The account must be federally insured or secured by collateral of value reasonably equivalent to the amount of FSA program funds in the account. A school generally is not required to maintain a separate account for each FSA program unless the Department imposes this requirement as a result of a program review or other action.

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.

### When a school does not maintain a separate 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 school can otherwise manage cash in an operating account, when that account contains FSA funds.

If a school does not 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 described in *Volume 2, chapter 9*.

### 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

### Maintaining & accounting for funds

34 CFR 668.163

### Recordkeeping requirements

34 CFR 668.24

#### Not applicable to some programs

The cash management requirements are not applicable to the state grant and scholarship programs. The Leveraging Educational Assistance Partnership Program (LEAP—formerly the State Student Incentive Grant [SSIG] Program), the Special Leveraging Educational Assistance Partnership (SLEAP), the Robert C. Byrd Honors Scholarship (Byrd) Program and, if a State is the grantee, the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) are administered under rules established by the states.

#### Timely return of funds

Schools are required to make a timely return of any unearned funds after a student withdraws, as discussed in *Volume 5, chapter 2*. This discussion also defines **timely return of funds** for a school that maintains FSA program funds and general operating funds in the same bank account.

### 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.

- 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.

### Interest-bearing or investment account

Direct Loan, Pell Grant, ACG, National SMART 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 payment method.

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, ACG, National SMART 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.

### 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 979053  
St. Louis, Missouri 63197-9000**

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.

## 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 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.

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 earlier, under the advanced payment method a school must disburse funds no later than three business days following the date the school receives them. The Department considers excess cash to be any amount of Title IV funds, other than Perkins Loan funds, a school does not disburse to students or parents by the end of the third business day following the date the school –

1. received those funds from the Department; or
2. deposited or transferred to its Federal funds account previously disbursed Title IV funds received from the Department, such as those resulting from award adjustments, recoveries, or cancellations.

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### Excess cash

34 CFR 668.166



### Three-day rule

A school must disburse FSA funds as soon as administratively feasible but no later than three business days following the date the school received those funds.

Cite  
34 CFR 668.162(b)(3)



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### Excess cash

34 CFR 668166

The excess cash regulations do not apply to the Title IV funds that a school receives under the Just-in-Time payment method.

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### Excess cash tolerances

34 CFR 668.166(b)

### 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 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 FFEL loan funds.

Cite 34 CFR 668.58(c)

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 some excess cash for up to seven additional days.

### Allowable excess cash tolerances

A school may retain for up to seven days an amount of excess cash that does not exceed one percent of the total amount of funds the school drew down in the prior award year. The school must return immediately to the Department any amount of excess cash over the one-percent tolerance and any amount remaining in its account after the seven-day tolerance period.

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.

### **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 first half of the loan 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 FFEL Stafford loan funds for verification**

If you have certified an FFEL 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.

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.

#### **FFEL three-day rule**

34 CFR 668.167(b)(2)

#### **Holding and returning FFEL funds**

- Basic requirement to return FFEL funds  
34 CFR 668.167(b)(1)
- Additional 10 days  
34 CFR 668.167(b)(2)
- If the borrower did not complete the number of clock hours or credits in the previous payment period  
34 CFR 668.167(c)(1)(i)(A)&(B)
- If the student has not met all the FFEL eligibility requirements and the school expects the student to meet them within the 10 days  
(34 CFR 668.167(c)(1)(ii)(A)&(B))
- If the school is on heightened cash monitoring.  
34 CFR 668.167(d)&(f)
- Verification delay  
34 CFR 668.58(c)

#### **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.

#### **Cite**

FFEL: 34 CFR 668.167

## RECOVERY OF UNCLAIMED FSA FUNDS (PROHIBITION ON ESCHEATING)

### Reminder

#### 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.

#### Schools' fiduciary responsibilities

34 CFR 668.14(b)(1) and 34 CFR 668.161(b)

### New

#### 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.

Except for funds received by a school for administrative expenses and for funds used for the Job Location and Development Program, funds received by a school under the FSA programs are held in trust for the intended student beneficiaries. As a trustee of those funds, a school may not use (or use as collateral) FSA funds for any other purpose.

Moreover, 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 fails to disburse funds by those dates is in violation of the Department's cash management regulations.

In addition, 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.

A school must return to the Secretary, lender, or guaranty agency, any Title IV, HEA program funds, except FWS program funds, that it attempts to disburse directly to a student or parent if the student or parent does not receive or negotiate those funds. (For FWS program funds, a school is required to return only the Federal portion of the payroll disbursement.)

**A school must have a process that ensures FSA funds 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 FSA regulations.



### **Timeframe for returning unclaimed funds**

If a school attempts to disburse the credit balance by check or EFT and the check is not cashed or the EFT is rejected, the school must return the funds no later than 240 days after the date it issued that check or made the EFT.

However, if a check is returned to a school, or an EFT is rejected, the school may make additional attempts to disburse the funds, provided that those attempts are made not later than 45 days after the funds were returned or rejected.

In cases where the school does not make another attempt, the funds must be returned before the end of the initial 45-day period.

The school must cease all attempts to disburse the funds and return them no later than 240 days after the date it issued the first check.




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#### **Timeframe for returning unclaimed funds**

34 CFR 668.161(h)

### **GARNISHMENT OF FSA FUNDS PROHIBITED**

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.



#### **Title IV FSA funds are not subject to Garnishment or Attachment**

No grant, loan, or work assistance awarded under Title IV (or property traceable to that assistance) is subject to garnishment or attachment except to satisfy a debt owed to the Department.

Cite: HEA 488A(d)

## RETURNING FUNDS

There are a number of reasons why a school may have to return funds to the Department including –

### **Returning funds by depositing them in a federal funds account (34 CFR 668.173(b))**

For funds obtained from the Department, a school meets the Return requirement if it deposits or transfers the funds into its federal account no later than 45 days after the school determined that a student withdrew or received an overpayment the school was responsible for returning.

If a school has not drawn down federal funds or has made disbursements that exceed the amount the school has drawn the school does not need to be deposit funds in its federal account. Of course, the school's accounting records must show that institutional funds were used to credit the student's account.

1. the return of FSA funds required when a school must correct an overaward or an overpayment, and the return of funds required when a student withdraws or otherwise ceases attendance during a payment period or period of enrollment (The return of funds under these circumstances is discussed in Volume 5.);
2. having FSA funds on hand with no expectation they can be disbursed to other eligible students within three days (excess cash);
3. owing the Department for expenditures disallowed during a program review or audit;
4. having earned interest on your federal funds (other than in your Perkins account) in excess of \$250.00; and
5. holding large Federal Perkins Loan cash balances on hand ((COH) balances on the FISAP).

GAPS allows Payees to return money to the Department (including excess interest) using the Electronic Refund Functionality in GAPS for up to 10 years following the end of the award year. For complete instructions on returning funds through GAPS, see The Blue Book and the GAPS Refund Manual.

**Only in exceptional circumstances should a school return funds by sending a check instead of using the electronic refund functionality in GAPS.**

## Downward adjustment of Pell, ACG, National SMART Grant, and Direct Loan required

All Pell Grant, ACG, and National SMART Grant funds, other than funds that are being returned to stay in compliance with the excess cash requirements, must be offset by downward reductions in students records in COD. Likewise, all Direct Loan funds, other than funds that are being returned to stay in compliance with the excess cash requirements, must be offset by downward reductions in borrowers' loans in COD.<sup>1</sup>

All returns of Pell funds made by a school receiving funds under the Pushed Cash method must be offset by reductions in the student's Pell in COD.

All returns of Pell funds previously disbursed (unclaimed credit balances) must be offset by reductions in COD.

### Returning funds from an audit or program review

If, as a result of a program review or audit, a school is required to repay FSA funds, a copy of its Final Audit Determination Letter (FADL) or Final Program Review Determination (FPRD) letter is sent to ED's Receivables and Cash Receipts Team (RCRT) where an account receivable is established for the school. The Department will then, through its billing agent, bill the school for the disallowed expenditures, accrued interest, and penalties, if any. Payment instructions will be included with the bill.

- If a school owes ED \$100,000 or more, it must remit payment through its financial institution by FEDWIRE.
- If a school owes ED less than \$100,000 it must remit payment by check to ED's billing agent.

A school may not reduce amounts reported as net drawdowns on its GAPS Activity Reports to account for expenditures disallowed as a result of an audit or program review. Any FSA funds returned for this purpose will not be credited to a school's GAPS account.

Unless otherwise directed by the FADL or FPRD letter, a school may not adjust its prior-year FISAPs or Federal Pell Grant processed payment information to reflect expenditures disallowed as a result of an audit or program review. Also, the school should send Stafford/PLUS repayments directly to any FFEL Program lender, or to the Direct Loan Servicing Center.

### Returning Funds by Check

*(These instructions do not apply to returning funds from an audit or program review.)*

If exceptional circumstances require that you return Pell or Campus-Based funds by check you must –

1. use a separate check for each award year; and
2. note the school's D-U-N-S number and the appropriate Program Award Number (Pell Grant Award Number) on the check.

The GAPS lockbox address for Pell and Campus-Based funds is

U.S. Department of Education  
P.O. Box 979053  
St. Louis, Missouri 63197-9000

If exceptional circumstances require that you return Direct Loan funds by check, you must –

1. use a separate check for each award year;
2. note the school's D-U-N-S number, Direct Loan school code, and award year on each check; and
3. include a completed Direct Loans Return of Cash form with each check (see DLB 04-06).

The address for returning Direct Loan funds by check is:

U.S. Department of Education  
Attention Refunds of Cash  
P.O. Box 9001  
Niagra Falls, New York 14302

1. A school that has drawn down more funds than it can disburse due to changes in students' status between the drawdown and disbursement date would need to return the funds if they could not disburse them within the allowed timeframe. However, such returns would not be offset by reductions in the students' records in COD.