

PART 668--STUDENT ASSISTANCE GENERAL PROVISIONS

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

AUTHORITY: 20 U.S.C. 1001, 1002, 1003, 1085, 1088, 1091, 1092, 1094, 1099c, and 1099c-1, unless otherwise noted.

2. Section 668.1 is amended by:

§ 668.1 Scope.

(c) The Title IV, HEA programs include—

(1) The Federal Pell Grant Program (20 U.S.C. 1070a *et seq.* ; 34 CFR part 690);

(2) The Academic Competitiveness Grant (ACG) Program (20 U.S.C. 1070a-1; 34 CFR part 691);

(3) The Federal Supplemental Educational Opportunity Grant (FSEOG) Program (20 U.S.C. 1070b *et seq.* ; 34 CFR parts 673 and 676);

(4) The Leveraging Educational Assistance Partnership (LEAP) Program (20 U.S.C. 1070c *et seq.* ; 34 CFR part 692);

(5) The Federal Stafford Loan Program (20 U.S.C. 1071 *et seq.*; 34 CFR part 682);

(6) The Federal PLUS Program (20 U.S.C. 1078-2; 34 CFR part 682);

(7) The Federal Consolidation Loan Program (20 U.S.C. 1078-3; 34 CFR part 682);

(8) The Federal Work-Study (FWS) Program (42 U.S.C. 2751 *et seq.* ; 34 CFR parts 673 and 675);

(9) The William D. Ford Federal Direct Loan (Direct Loan) Program (20 U.S.C. 1087a *et seq.* ; 34 CFR part 685);

(10) The Federal Perkins Loan Program (20 U.S.C. 1087aa *et seq.*; 34 CFR parts 673 and 674); ~~and~~

(11) The National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program (20 U.S.C. 1070a-1; 34 CFR part 691).—and

(12) The Teacher Education Assistance for College and Higher Education (TEACH) Grant program.

3. Section 668.2(b) is amended by:

§668.2 General definitions.

(b)***

Teacher Education Assistance for College and Higher Education (TEACH) Grant Program: A grant program authorized by title IV of the HEA under which grants are awarded to students who are completing, or intend to complete, coursework necessary to begin a career in teaching and who agree to serve for not less than four years as a full-time, highly qualified, high-need subject area teacher in a low-income school. If the recipient of a TEACH Grant does not complete four years of qualified teaching service within eight years of completing the course of study for which the TEACH Grant was received or otherwise fails to meet the requirements of section 686.____, the amount of the TEACH Grant converts into a Federal Direct Unsubsidized Stafford/Ford Loan.

4. Section 668.8 is amended by:

§668.8 Eligible programs.

(h) *Eligibility for Federal Pell Grant, ACG, National SMART Grant, TEACH Grant, and FSEOG Programs.* In addition to satisfying other relevant provisions of the section--

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

(2) An educational program qualifies as an eligible program for purposes of the ACG, National SMART Grant, and FSEOG programs only if the educational program is an undergraduate program.

(3) An educational program qualifies as an eligible program for purposes of the TEACH Grant program only if the educational program is--

(i) a teacher preparation program or a program in a high-need subject area that leads to an

- associates, baccalaureate or master's degree,
or is a post-baccalaureate program; and
- (ii) is offered by a TEACH Grant-eligible
institution as defined in 34 CFR 686.2(d).

5. Section 668.19(a)(3) is revised to read as follows:

§668.19 Financial aid history.

(a) Before an institution may disburse title IV, HEA program funds to a student who previously attended another eligible institution, the institution must use information it obtains from the Secretary, through the National Student Loan Data System (NSLDS) or its successor system, to determine—

(1) Whether the student is in default on any title IV, HEA program loan;

(2) Whether the student owes an overpayment on any title IV, HEA program grant or Federal Perkins Loan;

(3) For the award year for which a Federal Pell Grant, an ACG, a National SMART Grant, or a TEACH Grant is requested, the student's Scheduled Federal Pell Grant, ACG, National SMART Grant, or TEACH Grant Award and the amount of Federal Pell Grant, ACG, National SMART Grant, or TEACH Grant funds disbursed to the student;

6. Section 668.21 is amended by:

§ 668.21 Treatment of Federal Perkins Loan, FSEOG, Federal Pell Grant, ACG, TEACH Grant, and National SMART Grant program funds if the recipient withdraws, drops out, or is expelled before his or her first day of class.

(a)(1) If a student officially withdraws, drops out, or is expelled before his or her first day of class of a payment period, all funds paid to the student for that payment period for institutional or noninstitutional costs under the Federal Pell Grant, ACG, National SMART Grant, FSEOG, TEACH Grant, and Federal Perkins Loan programs are an overpayment.

(2) The institution shall return that overpayment to the respective title IV, HEA programs in the amount that the student received from each program.

(b) For purposes of this section, the Secretary considers that a student drops out before his or her first day of class of a payment period if the institution is unable to document the student's attendance at any class during the payment period.

7. Section 668.22 is amended by:

§ 668.22 Treatment of title IV funds when a student withdraws.

(a) *General.* (1) When a recipient of title IV grant or loan assistance withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the institution must determine the amount of title IV grant or loan assistance that the student earned as of the student's withdrawal date in accordance with paragraph (e) of this section.

(2) For purposes of this section, "title IV grant or loan assistance" includes only assistance from the Federal Perkins Loan, Direct Loan, FFEL, Federal Pell Grant, Academic Competitiveness Grant, National SMART Grant, TEACH Grant, and FSEOG programs, not including the non-Federal share of FSEOG awards if an institution meets its FSEOG matching share by the individual recipient method or the aggregate method.

(i) *Order of return of title IV funds* —(1) *Loans.* Unearned funds returned by the institution or the student, as appropriate, in accordance with paragraph (g) or (h) of

this section respectively, must be credited to outstanding balances on title IV loans made to the student or on behalf of the student for the payment period or period of enrollment for which a return of funds is required. Those funds must be credited to outstanding balances for the payment period or period of enrollment for which a return of funds is required in the following order:

(i) Unsubsidized Federal Stafford loans.

(ii) Subsidized Federal Stafford loans.

(iii) Unsubsidized Federal Direct Stafford loans.

(iv) Subsidized Federal Direct Stafford loans.

(v) Federal Perkins loans.

(vi) Federal PLUS loans received on behalf of the student.

(vii) Federal Direct PLUS received on behalf of the student.

(2) *Remaining funds.* If unearned funds remain to be returned after repayment of all outstanding loan amounts, the remaining excess must be credited to any amount awarded

for the payment period or period of enrollment for which a return of funds is required in the following order:

(i) Federal Pell Grants.

(ii) Academic Competitiveness Grants.

(iii) National SMART Grants.

(iv) FSEOG Program aid.

(v) TEACH Grants.

8. Section 668.24 is amended by:

§ 668.24 Record retention and examinations.

(e) *Record retention.* Unless otherwise directed by the Secretary—

(1) An institution shall keep records relating to its administration of the Federal Perkins Loan, FWS, FSEOG, Federal Pell Grant, ACG, ~~or~~ National SMART Grant, or TEACH Grant Program for three years after the end of the award year for which the aid was awarded and disbursed under those programs, provided that an institution shall keep—

(Authority: 20 U.S.C. 1070a, 1070a-1, 1070b, 1078, 1078-1, 1078-2, 1078-3, 1082, 1087, 1087a et seq., 1087cc, 1087hh, 1088, 1094, 1099c, 1141, 1232f; 42 U.S.C. 2753; and section 4 of Pub. L. 95-452, 92 Stat. 1101-1109)

9. Section 668.26 is amended by:

§ 668.26 End of an institution's participation in the Title IV, HEA programs.

(d)(1) An institution may use funds that it has received under the Federal Pell Grant, ACG, ~~or~~ National SMART Grant or TEACH Grant Program or a campus-based program or request additional funds from the Secretary, under conditions specified by the Secretary, if the institution does not possess sufficient funds, to satisfy any unpaid commitment made to a student under that Title IV, HEA program only if—

(e) For the purposes of this section—

(1) A commitment under the Federal Pell Grant, ACG, ~~and~~ National SMART Grant, and TEACH programs occurs when a student is enrolled and attending the institution and has submitted a valid Student Aid Report to the institution or when an institution has received a valid institutional student information report; and

10. Section 668.32 is amended by:

§ 668.32 Student eligibility—general.

(c)(1) For purposes of the ACG, National SMART Grant, and FSEOG programs, does not have a baccalaureate or first professional degree;

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

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

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

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

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

(4) For the purposes of the TEACH Grant program--

(i) For an undergraduate student other than a student enrolled in a post-baccalaureate program, has not completed

the requirements for a first baccalaureate degree; or

(ii) For purposes of a student in a post-baccalaureate program, has not completed the requirements for a post-baccalaureate program as described in 34 CFR 686.2(d).

(k) Satisfies the program specific requirements contained in-

- (1) 34 CFR 674.9 for the Federal Perkins Loan program;
- (2) 34 CFR 675.9 for the FWS program;
- (3) 34 CFR 676.9 for the FSEOG program;
- (4) 34 CFR 682.201 for the FFEL programs;
- (5) 34 CFR 685.200 for the William D. Ford Federal Direct Loan programs;
- (6) 34 CFR 690.75 for the Federal Pell Grant program;
- (7) 34 CFR 691.75 for the ACG and National SMART Grant programs;
- (8) 34 CFR 692.40 for the LEAP program; ~~and~~
- (9) 34 CFR 686. for the TEACH Grant program; and

12. Section 668.35 is amended by:

§ 668.35 Student debts under the HEA and to the U.S.

(g) (1) A student is not liable for a Federal Pell Grant overpayment received in an award year if the institution can eliminate that overpayment by adjusting subsequent Federal Pell Grant payments in that same award year.

(2) A student is not liable for an ACG overpayment received in an award year if—

(i) The institution can eliminate that overpayment by adjusting subsequent title IV, HEA program (other than Federal Pell Grant, ACG, or National SMART Grant) payments in that same award year; or

(ii) The institution cannot eliminate the overpayment under paragraph (g)(2)(i) of this section but can eliminate that overpayment by adjusting subsequent ACG payments in that same award year.

(3) A student is not liable for a National SMART Grant overpayment received in an award year if—

(i) The institution can eliminate that overpayment by adjusting subsequent title IV, HEA program (other than Federal Pell Grant, ACG, or National SMART Grant) payments in that same award year; or

(ii) The institution cannot eliminate the overpayment under paragraph (g)(3)(i) of this section but can eliminate that overpayment by adjusting subsequent National SMART Grant payments in that same award year.

(4) A student is not liable for a TEACH Grant overpayment received in an award year if--

(i) The institution can eliminate that overpayment by adjusting subsequent title IV, HEA program (other than Federal Pell Grant, ACG, National SMART Grant, or TEACH Grant) payments in that same award year; or

(ii) The institution cannot eliminate the overpayment under paragraph (g)(4)(i) of this section but can eliminate that overpayment by adjusting subsequent TEACH Grant payments in that same award year.

~~(4)~~ (5) A student is not liable for a FSEOG or LEAP overpayment or Federal Perkins loan overpayment received in an award year if the institution can eliminate that overpayment by adjusting subsequent title IV, HEA program (other than Federal Pell Grant) payments in that same award year.

13. Section 668.138 is amended by:

§ 668.138 Liability.

(a) A student is liable for any LEAP, FSEOG, Federal Pell Grant, ACG, ~~or~~ National SMART Grant, or TEACH Grant payment and for any Federal Stafford, Direct Subsidized, Direct Unsubsidized or Federal Perkins loan made to him or her if the student was ineligible for the Title IV, HEA assistance.

14. Section 668.139 is amended by:

§ 668.139 Recovery of payments and loan disbursements to ineligible students.

(c) If an institution is liable for a payment of a grant or Federal Perkins loan to an ineligible student, the institution shall restore the amount equal to the payment or disbursement to the institution's Federal Perkins loan fund or Federal Pell Grant, ACG, National SMART Grant, TEACH Grant, FSEOG, or LEAP amount, even if the institution cannot collect the payment or disbursement from the student.

15. Section 668.161(a)(3)(i) is amended by:

§ 668.161 Scope and purpose.

(a) *General.* (1) This subpart establishes the rules and procedures under which a participating institution requests, maintains, disburses, and otherwise manages title IV, HEA program funds. This subpart is intended to—

(i) Promote sound cash management of title IV, HEA program funds by an institution;

(ii) Minimize the financing costs to the Federal Government of making title IV, HEA program funds available to a student or an institution; and

(iii) Minimize the costs that accrue to a student under a title IV, HEA loan program.

(2) The rules and procedures that apply to an institution under this subpart also apply to a third-party servicer.

(3) As used in this subpart—

(i) The title IV, HEA programs include only the Federal Pell Grant, ACG, National SMART Grant, TEACH Grant, FSEOG, Federal Perkins Loan, FWS, Direct Loan, and FFEL programs;

(ii) The term "parent" means a parent borrower under the PLUS programs;

(iii) With regard to the FFEL Programs, the term "disburse" means the same as deliver loan proceeds under 34 CFR part 682 of the FFEL Program regulations; and

(iv) A day is a calendar day unless otherwise specified.

16. Section 668.162(d)(1) is amended by:

§ 668.162 Requesting funds.

(d) *Reimbursement payment method.* Under the reimbursement payment method—

(1) An institution must first make disbursements to students and parents for the amount of funds those students and parents are eligible to receive under the Federal Pell Grant, ACG, National SMART Grant, TEACH Grant, Direct Loan, and campus-based programs before the institution may seek reimbursement from the Secretary for those disbursements. The Secretary considers an institution to have made a disbursement if the institution has either credited a student's account or paid a student or parent directly with its own funds;

17. Section 668.163 is amended by:

§ 668.163 Maintaining and accounting for funds.

(c) *Interest-bearing or investment account.* (1) An institution must maintain the Fund described in §674.8(a) of the Federal Perkins Loan Program regulations in an interest-bearing bank account or investment account consisting predominately of low-risk, income-producing securities, such as obligations issued or guaranteed by the United States. Interest or income earned on Fund proceeds are retained by the institution as part of the Fund.

(2) Except as provided in paragraph (c)(3) of this section, an institution must maintain Direct Loan, Federal Pell Grant, ACG, National SMART Grant, TEACH Grant, FSEOG, and FWS program funds in an interest-bearing bank account or an investment account as described in paragraph (c)(1) of this section.

(3) An institution does not have to maintain Direct Loan, Federal Pell Grant, ACG, National SMART Grant, TEACH Grant, FSEOG, and FWS program funds in an interest-bearing bank account or an investment account for an award year if-

(i) The institution drew down less than a total of \$3 million of those funds in the prior award year and anticipates that it will not draw down more than that amount in the current award year;

(ii) The institution demonstrates by its cash management practices that it will not earn over \$250 on those funds during the award year; or

(iii) The institution requests those funds from the Secretary under the just-in-time payment method.

(4) If an institution maintains Direct Loan, Federal Pell Grant, ACG, National SMART Grant, TEACH Grant, FSEOG, and FWS program funds in an interest-bearing or investment account, the institution may keep the initial \$250 it earns on those funds during an award year. By June 30 of that award year, the institution must remit to the Secretary any earnings over \$250.

18. Section 668.164 is amended by:

§ 668.164 Disbursing funds.

(g)(4) *Limitations.* (i) Generally, an institution may not make a late disbursement later than 120 days after the date of the institution's determination that the student withdrew, as provided under §668.22, or, for a student who did not withdraw, 120 days after the date the student otherwise became ineligible. On an exception basis, and with the approval of the Secretary, an institution may make a late disbursement after the applicable 120-day period, if the reason the late disbursement was not made within the 120-day period was not the fault of the student.

(ii) An institution may not make a second or subsequent late disbursement of a loan under the FFEL or Direct Loan programs unless the student successfully completed the period of enrollment for which the loan was intended.

(iii) An institution may not make a late disbursement of a loan under the FFEL or Direct Loan programs if the

student was a first-year, first-time borrower unless the student completed the first 30 days of his or her program of study. This limitation does not apply if the institution is exempt from the 30-day delayed disbursement requirements under §682.604(c)(5)(i), (ii), or (iii) or §685.303(b)(4)(i)(A), (B), or (C) of this chapter.

(iv) An institution may not make a late disbursement of a Federal Pell Grant, an ACG, ~~or~~ a National SMART Grant, or a TEACH Grant unless it received a valid SAR or a valid ISIR for the student by the deadline date established by the Secretary in a notice published in the Federal Register.

19. Section 668.183 is amended by:

§ 668.183 Calculating and applying cohort default rates.

(b) *Identify the borrowers in a cohort.* (1) ~~Your~~
Except as provided in paragraph (b)(3), your cohort for a fiscal year consists of all of your current and former students who, during that fiscal year, entered repayment on any Federal Stafford loan, Federal SLS loan, Direct Subsidized loan, or Direct Unsubsidized loan that they received to attend your institution, or on the portion of a loan made under the Federal Consolidation Loan Program or the Federal Direct Consolidation Loan Program (as defined in 34 CFR 685.102) that is used to repay those loans.

(2) A borrower may be included in more than one of your cohorts and may be included in the cohorts of more than one institution in the same fiscal year.

(3) A TEACH Grant that has been converted to a Direct Unsubsidized Loan is not considered for the purpose of calculating and applying cohort default rates.

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

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

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

21. Section 673.5 is amended in paragraph (c)(1)(v) by:

§ 673.5 Overaward.

(c)(2) The Secretary does not consider as estimated financial assistance—

(i) Any portion of the estimated financial assistance described in paragraph (c)(1) of this section that is included in the calculation of the student's expected family contribution (EFC);

(ii) Earnings from non-need-based employment;

(iii) Those amounts used to replace EFC, including the amounts of any TEACH Grants, unsubsidized Federal Stafford or Direct Loans, Federal PLUS or Federal Direct PLUS Loans, and non-federal non-need-based loans, including private, state-sponsored, and institutional loans. However, if the sum of the ~~loan~~ amounts received that are being used to replace the student's EFC actually exceed the EFC, the excess amount must be treated as estimated financial assistance; and

PART 674—FEDERAL PERKINS LOAN PROGRAM

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

AUTHORITY: 20 U.S.C. 1087aa-1087hh and 20 U.S.C. 421-429 unless otherwise noted.

23. Section 674.2(a) is amended by:

§ 674.2 Definitions.

(a) The definitions of the following terms used in this part are set forth in subpart A of the Student Assistance General Provisions, 34 CFR part 668:

Teacher Education Assistance for College and Higher Education (TEACH) Grant Program

TEACH Grant

PART 675--FEDERAL WORK-STUDY PROGRAMS

24. The authority citation for part 675 continues to read as follows:

AUTHORITY: 42 U.S.C. 2751-2756b, unless otherwise noted.

25. Section 675.2(a) is amended by:

§ 675.2 Definitions.

(a) The definitions of the following terms used in this part are set forth in subpart A of the Student Assistance General Provisions, 34 CFR 668:

Teacher Education Assistance for College and Higher Education (TEACH) Grant Program

TEACH Grant

**PART 676--FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY
GRANT PROGRAM**

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

AUTHORITY: 20 U.S.C. 1070b-1070b-3, unless otherwise noted.

27. Section 676.2(a) is amended by:

§ 676.2 Definitions.

(a) The definitions of the following terms used in this part are set forth in subpart A of the Student Assistance General Provisions, 34 CFR part 668:

Teacher Education Assistance for College and Higher
Education (TEACH) Grant Program

TEACH Grant

PART 682--FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

28. The authority citation for part 682 continues to read as follows:

AUTHORITY: 20 U.S.C 1071 to 1087-2, unless otherwise noted.

29. Section 682.200 is amended by:

§ 682.200 Definitions.

(a)(1) The definitions of the following terms used in this part are set forth in subpart A of the Student Assistance General Provisions, 34 CFR part 668:

Teacher Education Assistance for College and Higher Education (TEACH) Grant Program

TEACH Grant

Estimated financial assistance.

(2) Estimated financial assistance does not include—
(i) Those amounts used to replace the expected family contribution, including the amounts of any TEACH Grant, unsubsidized Federal Stafford or Federal Direct

Stafford/Ford Loans, Federal PLUS or Federal Direct PLUS Loans, and non-federal non-need-based loans, including private, state-sponsored, and institutional loans. However, if the sum of the ~~loan~~ amounts received that are being used to replace the student's EFC exceed the EFC, the excess amount is treated as estimated financial assistance;

29b. Section 682.204 is amended by:

§ 682.204 Maximum loan amounts.

(c) *Unsubsidized Stafford Loan Program.* (1) In the case of a dependent undergraduate student, the total amount the student may borrow for any period of study under the Unsubsidized Stafford Loan Program in combination with the Federal Direct Unsubsidized Stafford/Ford Loan Program is the same as the amount determined under paragraph (a) of this section, less any amount received under the Stafford Loan Program or the Federal Direct Stafford/Ford Loan Program, except that any TEACH Grants that have been

converted to Direct Unsubsidized Loans are not counted
against annual or aggregate loan limits under this section.

PART 685--WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

30. The authority citation for part 685 continues to read as follows:

AUTHORITY: 20 U.S.C 1087a et seq., unless otherwise noted.

31. Section 685.102 is amended by:

§ 685.102 Definitions.

(a)(1) The definitions of the following terms used in this part are set forth in subpart A of the Student Assistance General Provisions, 34 CFR part 668:

Teacher Education Assistance for College and Higher Education (TEACH) Grant Program

TEACH Grant

Estimated financial assistance.

(2) Estimated financial assistance does not include—

(i) Those amounts used to replace the expected family contribution (EFC), including the amounts of any TEACH

Grant, unsubsidized Federal Stafford Loans or Direct Stafford Loans, Federal PLUS or Direct PLUS Loans, and non-federal non-need-based loans, including private, state-sponsored, and institutional loans. However, if the sum of the ~~loan~~ amounts received that are being used to replace the student's EFC exceed the EFC, the excess amount must be treated as estimated financial assistance;

32. Section 685.203(b) is amended by:

§ 685.203 Loan limits.

(b) *Direct Unsubsidized Loans*. The total amount a student may borrow under any period of study for the Federal Direct Unsubsidized Loan Program and the Federal Unsubsidized Stafford Loan Program is the same as the amount determined under paragraph (a) of this section, less any amount received under the Federal Direct Stafford/Ford Loan Program or the Federal Stafford Loan Program, except that any TEACH Grants that have been converted to Direct Unsubsidized Loans are not counted against annual or aggregate loan limits under this section.

DRAFT 1/25/2008 7:53 AM

PART 690--FEDERAL PELL GRANT PROGRAM

(Authority: 20 U.S.C. XXXX)

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

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

35. Section 690.2 is amended by:

§ 690.2 Definitions.

(a) The following definitions are contained in the regulations for Institutional Eligibility under the Higher Education Act of 1965, as amended, 34 CFR part 600:

Teacher Education Assistance for College and Higher Education (TEACH) Grant Program

TEACH Grant
