

**Proposed Regulatory Language
Committee III – General Provisions**

Issue #1: Consistent enrollment status definitions for all Title IV programs

Regulatory Cite: §668.2(b); §668.10(a)(3)(v); §668.10(a)(3)(vi); §674.2(b); §682.200; §685.102; §690.2(c)

Summary of Change: Definitions for full-time student, half-time student, and three-quarter time student were updated as needed, consolidated, and moved to §668.2(b). More specifically, the definition for a full-time student in a clock hour program was updated to reflect the new academic year definition, which changed the minimum number of weeks of instructional time from 30 to 26. In order for a full-time clock hour student to meet the required 900 hours by the end of the minimum 26 weeks, a student must now complete 35 hours of instructional time per week instead of 24. Additionally, a definition of full-time for a student who is taking some correspondence coursework has been added to the general definitions. References to these terms in §668.10(a)(3)(v), 668.10(a)(3)(vi), §674.2(b), §682.200, §685.102, §690.2(c), §690.8(c), and §691.8(c) have been removed.

Tentative Agreement: Not fully discussed yet.

Change:

§668.2(b) General Definitions.

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Full-time student: An enrolled student who is carrying a full-time academic workload as determined by the institution under a standard applicable to all students enrolled in a particular educational program. The student's workload may include any combination of courses, work, research, or special studies that the institution considers sufficient to classify the student as a full-time student. However, for an undergraduate student, an institution's minimum standard must equal or exceed one of the following minimum requirements:

(1) For a program that measures progress in credit hours and uses standard terms (semesters, trimesters, or quarters), 12 semester hours or 12 quarter hours per academic term.

(2) For a program that measures progress in credit hours and does not use terms, 24 semester hours or 36 quarter hours over the weeks of instructional time in the academic year, or the prorated equivalent if the program is less than one academic year.

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(3) For a program that measures progress in credit hours and uses nonstandard terms (terms other than semesters, trimesters or quarters) the number of credits determined by:

(i) Dividing the number of weeks of instructional time in the term by the number of weeks of instructional time in the program's academic year; and

(ii) Multiplying the fraction determined under (b)(3)(i) of this section by the number of credit hours in the program's academic year.

(4) For a program that measures progress in clock hours, the clock hours per week as determined by dividing the clock hours in the program's academic year by the weeks of instructional time in the program's academic year.

(5) A series of courses or seminars that equals 12 semester hours or 12 quarter hours in a maximum of 18 weeks.

(6) The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic workload of a full-time student.

(7) For correspondence coursework, a full-time courseload must be--

(i) Commensurate with the full-time definitions listed in paragraphs (1) through (6) of this section; and

(ii) At least one-half of the coursework must be made up of non-correspondence coursework that meets one-half of institution's requirement for full-time students.

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Half-time student: (1) Except as provided in paragraph (2), an enrolled student who is carrying a half-time academic work load, as determined by the institution, that amounts to at least half the work load of the applicable minimum requirement outlined in the definition of a full-time student.

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(2) A student enrolled solely in a program of study by correspondence who is carrying a work load of at least 15 hours of work per week, or is earning at least 6 credit hours per semester, trimester or quarter. However, regardless of the work, no student enrolled solely in correspondence study is considered more than a half-time student.

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Three-quarter time student: An enrolled student who is carrying a three-quarter-time academic work load, as determined by the institution, that amounts to at least three quarters of the work of the applicable minimum requirement outlined in the definition of a full-time student.

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[The definitions that have been added to the General Provisions regulations will be listed in each part, as appropriate, with the terms used in that part that are set forth in subpart A of the Student Assistance General Provisions, 34 CFR 668.]

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Issue #2: Consistent definitions for undergraduate student, graduate or professional student and first-professional degree for all Title IV programs

Regulatory Cite: §674.2(b); §675.2(b); §676.2(b); §682.200; §690.2; §691.2

Summary of Change: Definitions for undergraduate and graduate or professional student were consolidated and moved to §668.2(b). References to these terms in §674.2(b), §675.2(b), §676.2(b), §682.200, §690.2, and §691.2 have been removed. Language was added to the definition of undergraduate student to clarify that any student who is enrolled in a dual degree program (bachelor’s and higher) is considered an undergraduate student for purposes of Federal student aid for his/her first three academic years in the program. A definition for first professional degree was added to §668.2(b) to clarify that designation. It is based on the definition of first professional degree used by the Integrated Postsecondary Education Data System (IPEDS).

Tentative Agreement: Not fully discussed yet.

Change:

§668.2(b) General definitions.

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First professional degree: A degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor’s degree. Professional licensure is also generally required. Examples of a first professional degree include but are not limited to Pharmacy (Pharm.D.), Dentistry (D.D.S. or D.M.D.), and Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B., J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod.D.), and Theology (M.Div., M.H.L.).

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Graduate or professional student: A student who:

(1) Is enrolled in a program or course above the baccalaureate level at an institution of higher education or is enrolled in a program leading to a first professional degree;

(2) Has completed the equivalent of at least three years of full-time study at an institution of higher

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education, either prior to entrance into the program or as part of the program itself; and

(3) Is not receiving title IV aid as an undergraduate student for the same period of enrollment.

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Undergraduate student:

(1) A student who is enrolled in an undergraduate course of study that usually does not exceed four academic years, or is enrolled in a longer program designed to lead to a first degree at the baccalaureate level.

(2) In addition to meeting the definition in paragraph (1), a student is only considered an undergraduate for purposes of the Federal Supplemental Educational Opportunity Grant (FSEOG) Program, the Federal Pell Grant Program, the Academic Competitiveness Grant (ACG) Program, and National Science and Mathematics Access to Retain Talent (SMART) Grant Program if the student has not yet earned a baccalaureate or first professional degree.

(3) For purposes of dual degree programs that allow individuals to complete a bachelor's degree and either a graduate or first professional degree within the same program, a student is considered an undergraduate student for at least the first three academic years of that program.

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[The definitions that have been added to the General Provisions regulations will be listed in each part, as appropriate, with the terms used in that part that are set forth in subpart A of the Student Assistance General Provisions, 34 CFR 668.]

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Issue #3: Define independent study

Regulatory Cite: §600.2; §668.10(a)(3)(iii)

Summary of Change: A definition of independent study will be added to §668.2(b).

Tentative Agreement: Not fully discussed yet

Change:

§668.2(b) General Definitions.

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Independent study: A course of study in which:

(1) An individual student works with a faculty member to design a unique course or program of study tailored to that student's academic objectives and interests, or

(2) For purposes of direct assessment programs, a student follows a course of study with predefined objectives but works with a faculty member to decide how the student is going to meet those objectives; and

(3) For both (1) and (2) of this definition, the student and faculty member agree on what the student will do (e.g., required readings, research, and work products), how the student's work will be evaluated, and on what the relative timeframe for completion of the work will be. The student must interact with the faculty member on a regular and substantive basis to track progress within the course or program.

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Issue #4: Nonterm credit hour programs--Use of completion of half the weeks of instructional time for timing of loan disbursements.

Regulatory Cite: §668.4, §668.164(b)(1), §682.604(c)(6), (c)(7), and (c)(8),
§685.301(b)(2), (b)(3), (b)(5), and (b)(6), §674.16(b), §676.16(a),
§690.76, §691.76

Summary of change: The definition of a payment period has been changed to make the payment period definition the same for all Title IV grant and loan programs, except where prohibited by law and regulation (i.e., for nonstandard term programs using terms that are not substantially equal in length). This has been accomplished by: (1) applying the requirement that a student complete half the coursework and half the weeks of instructional time, rather than the use of completion of half the coursework and the calendar midpoint as currently used in the FFEL and Direct Loan program, for the timing of second disbursements to students in nonterm credit hour programs, and nonstandard term credit hour programs with terms that are not substantially equal in length; (2) requiring the completion of half the weeks instructional time in addition to half the clock hours in the payment period, before a second disbursement may be made to a student in a clock hour program to be consistent with current requirements for FFEL and Direct Loan funds and (3) for credit hour nonterm and clock hour programs, requiring two payment periods for any remainder of a program that is one academic year or less in length to be consistent with current requirements for FFEL and Direct Loan funds. Finally, a change to §668.22 has been made to require an institution to select and consistently use either the FFEL/Direct Loan payment period or the Title IV grants/Perkins loan payment period for Return of Title IV Funds calculations for a program that is measured in nonstandard terms that are not substantially equal in length. Aid that is not disbursed by the selected payment period must be attributed.

Tentative Agreement: Not fully discussed yet.

Change:

§668.4 Payment period.

(a) Payment periods for an eligible program that measures progress in credit hours and uses standard terms or nonstandard terms that are substantially equal in length. For a student enrolled in an eligible program that measures progress in credit hours and uses standard terms (semesters, trimesters, or quarters), or for a student enrolled in an eligible program that measures progress in credit hours and uses nonstandard terms that are substantially equal in length, the payment period is the academic term.

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(b) *Payment periods for an eligible program that measures progress in credit hours and uses nonstandard terms that are not substantially equal in length. For a student enrolled in an eligible program that measures progress in credit hours and uses nonstandard terms that are not substantially equal in length–*

(1) For Pell Grant, ACG, National SMART Grant, FSEOG, and Perkins Loan program funds, the payment period is the academic term.

(2) For FFEL and Direct Loan program funds–

(i) For a student enrolled in an eligible program that is one academic year or less in length or for the remaining portion of an eligible program that is one academic year or less in length–

(A) The first payment period is the period of time in which the student successfully completes half the number of credit hours in the program or remainder of the program, as applicable, and half the number of weeks of instructional time in the program or remainder of the program, as applicable; and

(B) The second payment period is the period of time in which the student successfully completes the program or remainder of the program, as applicable.

(ii) For a student enrolled in an eligible program that is more than one academic year in length–

(A) For the first academic year and any subsequent full academic year–

(1) The first payment period is the period of time in which the student successfully completes half the number of credit hours in the academic year and half the number of weeks of instructional time in the academic year; and

(2) The second payment period is the period of time in which the student successfully completes the academic year.

(c) *Payment periods for an eligible program that measures progress in credit hours and does not have academic terms or clock hours. (1) For a student enrolled*

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in an eligible program that is one academic year or less in length or for the remaining portion of an eligible program that is one academic year or less in length–

(i) The first payment period is the period of time in which the student successfully completes half the number of credit hours or clock hours, as applicable, in the program or remainder of the program and half the number of weeks of instructional time in the program or remainder of the program; and

(ii) The second payment period is the period of time in which the student successfully completes the program or the remainder of the program.

(2) For a student enrolled in an eligible program that is more than one academic year in length–

(i) For the first academic year and any subsequent full academic year–

(A) The first payment period is the period of time in which the student successfully completes half the number of credit hours or clock hours, as applicable, in the academic year and half the number of weeks of instructional time in the academic year; and

(B) The second payment period is the period of time in which the student successfully completes the academic year.

(3) For purposes of paragraphs (c)(1) and (c)(2) of this section, if an institution is unable to determine when a student has successfully completed half of the credit 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 institution, on which the student has successfully completed–

(i) Half of the academic coursework in the program, academic year, or remainder of the program; or

(ii) Half the number of weeks of instructional time in the program, academic year, or remainder of the program.

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(d) [change to current paragraph (d) discussed under "Require institutions to use consistent disbursement periods for Title IV programs, where allowed under the law"]

(e) *Re-entry within 180 days.* If a student withdraws from a program described in paragraph (c) or (d) of this section during a payment period and then reenters the same program within 180 days, the student remains in that same payment period when he or she returns and, subject to conditions established by the Secretary or by the FFEL lender or guaranty agency, is eligible to receive any title IV, HEA program funds for which he or she was eligible prior to withdrawal, including funds that were returned by the institution or student under the provisions of §668.22.

(f) *Re-entry after 180 days or transfer.*

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(2) For a student described in paragraph (f)(1) of this section—

(i) For the purpose of calculating payment periods only, the length of the program is the number of credit hours and the number of weeks of instructional time, or the number of clock hours and the number of weeks of instructional time, that the student has remaining in the program he or she enters or reenters; and

(ii) If the remaining hours and weeks constitute one-half of an academic year or less, the remaining hours constitute one payment period.

(g) *Terms substantially equal in length.* For purposes of this section, 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 that program.

§682.604 Processing the borrower's loan proceeds and counseling borrowers.

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(c)* * *

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(6) Unless the provision of §682.207(d) apply, if a loan period is more than one payment period, the school must deliver loan proceeds at least once in each payment period.

§685.301 Origination of a loan by a Direct Loan Program school.

(b) * * *

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(2) An institution must disburse the loan proceeds on a payment period basis in accordance with 34 CFR 668.164(b).

(3) Unless paragraph (b)(4) of this section applies, if a loan period is more than one payment period, the school must disburse loan proceeds at least once in each payment period.

(renumber as necessary)

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

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(e) * * *

(5) *Use of payment period or period of enrollment.* (i) The treatment of title IV grant or loan funds if a student withdraws must be determined on a payment period basis for a student who attended a standard term-based (semester, trimester, or quarter) educational program.

(ii)(A) The treatment of title IV grant or loan funds if a student withdraws may be determined on either a payment period basis or a period of enrollment basis for a student who attended a non-term based educational program or a nonstandard term-based educational program.

(B) An institution must consistently use either a payment period or period of enrollment for all purposes of this section for each of the following categories of

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students who withdraw from the same non-term based or nonstandard term-based educational program:

(1) Students who have attended an educational program at the institution from the beginning of the payment period or period of enrollment.

(2) Students who re-enter the institution during a payment period or period of enrollment.

(3) Students who transfer into the institution during a payment period or period of enrollment.

(iii) For a program that measures progress in credit hours and uses nonstandard terms that are not substantially equal in length, if the institution uses the payment period to determine the treatment of title IV grant or loan funds for a category of students found in paragraph (e)(5)(ii)(B) of this section, for students who are disbursed or could have been disbursed aid using both the payment period definition in §668.4(b)(1) and the payment period definition in §668.4(b)(2), the institution must—

(A) Consistently use for calculations under this section for all such students in the category—

(1) The payment period definition in §668.4(b)(1); or

(2) The payment period definition in §668.4(b)(2); and

(B) Attribute the title IV, HEA program assistance that is disbursed by the payment period that is not used for the calculation.

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Issue #5: Determining loan eligibility for nonstandard term programs

Regulatory Cite: §682.603, §685.301

Summary of Change: A student must successfully complete an academic year to progress to the next FFEL or Direct Loan annual loan limit. For a standard term based program, a student progresses to the next loan limit if he or she completes an academic year in calendar time. This change permits a student to progress to the next annual loan limit in a nonstandard term based program also based on calendar time only, if the terms in the program are substantially equal in length and are at least 9 weeks in length.

Tentative Agreement: Not fully discussed yet.

Change:

§682.603 Certification by a participating school in connection with a loan application.

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(g)(1) If a school measures academic progress in an educational program in credit hours and uses either standard terms (semesters, trimesters, or quarters) or nonstandard terms that are substantially equal in length, and each term is at least 9 weeks of instructional time in length, a student is considered to have completed an academic year and progresses to the next annual loan limit when the academic year calendar period has elapsed.

(2) If a school measures academic progress in an educational program in nonstandard terms that are not substantially equal in length, or in credit hours and does not have academic terms, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the academic coursework in the student's academic year.

(3) If a school measures academic progress in an educational program in clock hours, a student is considered

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to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the clock hours in the student's academic year.

(4) For purposes of paragraphs (g)(1) and (g)(2) of this section, terms in a loan period are substantially equal in length if no term in the loan period is more than two weeks of instructional time longer than any other term in that loan period.

Current (g)-(i) become (h)-(j).

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§685.301 Origination of a loan by a Direct Loan Program school.

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(c) *Annual loan limit progression based on completion of an academic year.* (1) If a school measures academic progress in an educational program in credit hours and uses either standard terms (semesters, trimesters, or quarters) or nonstandard terms that are substantially equal in length, and each term is at least 9 weeks of instructional time in length, a student is considered to have completed an academic year and progresses to the next annual loan limit when the academic year calendar period has elapsed.

(2) If a school measures academic progress in an educational program in nonstandard terms that are not substantially equal in length, or in credit hours and does not have academic terms, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

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(ii) The date, as determined by the school, that the student has successfully completed the academic coursework in the student's academic year.

(3) If a school measures academic progress in an educational program in clock hours, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the clock hours in the student's academic year.

(4) For purposes of paragraphs (c)(1) and (c)(2) of this section, terms in a loan period are substantially equal in length if no term in the loan period is more than two weeks of instructional time longer than any other term in that loan period.

Current (c) and (d) become (d) and (e).

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Issue #6: Require institutions to use consistent disbursement periods for Title IV programs, where allowed under the law

Regulatory Cite: §668.4, §668.164(b)(1), §668.22(e)(5), §674.16(b), §676.16(a), §682.604(c)(6), (c)(7), and (c)(8), §685.301(b)(2), (b)(3), (b)(5), and (b)(6).

Summary of Change: The changes made to the definition of a payment period (discussed under “Nonterm credit hour programs--Use of completion of half the weeks of instructional time for timing of loan disbursements”) would establish consistent payment periods for all Title IV grant and loan programs, except programs that measure progress in credit hours with nonstandard terms that are not substantially equal in length, as the statute and regulations require the use of different payment periods for these programs. To ensure consistency, §668.4 would be amended further to no longer permit an institution to have more than two payment periods in an academic year/program.

For example, for a clock hour program of 900 hours, an institution would be required to disburse Title IV grant and Perkins Loan funds using two 450 hour payment periods.

We note that under §690.76 and §691.76, an institution may pay a student Pell Grant, ACG and/or National SMART Grant funds at such times and in such installments in each payment period as it determines will best meet the student’s needs. Corresponding provisions for Perkins Loan and FSEOG funds are found in §674.16(b), §676.16(a) respectively. So, for example, an institution could make two Pell Grant payments within each payment period for a total of four Pell Grant payments for the program.

Tentative Agreement: Not fully discussed yet.

Change:

§668.4 Payment period.

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Paragraph (d) is deleted.

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Issue #7: Recovery of funds not claimed by student or parent.

Regulatory cite: §668.161(b)

Summary of Change: Establishes a timeframe for returning unclaimed funds to the Department or FFEL lender.

Tentative Agreement: Not fully discussed yet.

Change:

§668.161 Scope and purpose.

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(b) *Federal interest in title IV, HEA program funds.*

(1) Funds received by an institution under the title IV, HEA programs are held in trust for the intended student beneficiary, the Secretary, or lender or a guaranty agency under the FFEL programs. The institution, as a trustee of Federal funds, may not use or hypothecate (i.e., use as collateral) title IV, HEA program funds for any other purpose, except for program administrative expenses authorized by the Secretary and funds used for the Job Location and Development Program under the FWS Programs.

(2) Notwithstanding any State law, an institution must return immediately to the Secretary, lender, or guaranty agency, as applicable, any title IV, HEA program funds that it disbursed by issuing a check or initiating an electronic funds transfer (EFT) if--

(i) No later than 180 days after the date the check was issued, the check is not negotiated by the beneficiary; or

(ii) The check or EFT is returned undeliverable. However, for a failed EFT the institution must attempt to disburse the funds one more time by issuing a check.

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Issue #8 and #9: Electronic disbursements, use of stored-value cards, and issuing a check.

Regulatory cite: §668.164(c) and §668.165(b)

Summary of Change: Removes the Title IV requirement that an institution must first obtain a student's authorization to make an electronic funds transfer (EFT), but adds a provision reminding the institution that it must comply with the E-Sign Act and State Law regarding electronic transactions. Modifies the date that a check is issued and conditions the use of EFT, particularly where the institution opens, or is active in opening, bank accounts (including stored-value cards) on behalf of students.

Tentative Agreement: Not fully discussed yet.

Change:

§668.164 Disbursing funds.

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(c) *Direct payments.* An institution is responsible for making direct payments to students or parents within all applicable timeframes, including the timeframes established for credit balances under paragraph (e) of this section, funds the institution receives under the advance payment method as provided in §668.162(b), and post-withdrawal disbursements in §668.22(a)(5). An institution pays a student or parent directly by—

(1) Issuing a check or other instrument payable to and requiring the endorsement or certification of the student or parent. An institution issues a check, or releases a check provided by a lender under an FFEL Program, on the date it hands over the check, or mails the check, to the student or parent;

(2) Initiating an EFT to the student's or parent's bank account. If the bank account is opened at the request or direction of the institution, or opened by the institution on behalf of the student or parent, the institution must--

(i) Ensure that the bank account is FDIC insured;

(ii) Not make any claims against the funds in the account without the written permission of the student or

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parent, except for correcting an error in transferring the funds in accordance with banking protocols;

(iii) Ensure that its process for opening the account complies with applicable State Law regarding electronic transactions and the Electronic Signatures in Global and National Commerce Act (Public Law 106-229), as amended, particularly with the consent and consumer protection provisions contained in those laws;

(iv) 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 ATM card, or similar transaction device that is used to access electronically the funds in that account;

(v) Ensure that the student has convenient access to a branch office of the bank or automated teller machines (ATMs) of the bank in which the account was opened, and the student does not incur any cost in making cash withdraws from that office or ATM;

(v) Ensure that the debit, stored-value or ATM card, or other device can be widely used, e.g., the institution may not limit the use of the card or device to particular vendors;

(vi) May 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; and

(vii) Before the account is opened, must inform the student or parent of the terms and conditions associated with accepting and using the account, card, or device; or

(3) Dispensing cash for which an institution obtains a signed receipt from the student or parent.

A conforming change would be made in §668.165(b)(1) by deleting paragraph (i), which now requires an institution to get a student's permission to disburse funds to his or her bank account.

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Issue #10: Late, late disbursements.

Regulatory cite: §668.164(g)(4)

Summary of Change: Removes the late, late disbursement provisions.

Tentative Agreement: Not fully discussed yet.

Change:

§668.164 Disbursing funds.

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(g) *Late disbursements.*

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(4) *Limitations.* (i) 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 in §668.22, or, for a student who did not withdraw, 120 days after the date the student otherwise becomes ineligible.

(ii) Renumber the rest of the section.

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Issue #11: Affirmative confirmation of a loan.

Regulatory cite: §668.165(a)

Summary of Change: For each award year, requires an institution to obtain written confirmation from a student that she wants the loans included in her aid package.

Tentative Agreement: Not fully discussed yet.

Change:

§668.165 Notices and authorizations

(a) *Notices.* (1) For any award year, an institution must notify a student of the amount of funds that the student or his or her parent can expect to receive under each title IV, HEA program, and how and when those funds will be disbursed. If those funds include Direct Loan or FFEL Program funds, the notice must indicate which funds are from subsidized loans and which are from unsubsidized loans.

(i) Before the institution disburses a loan under any title IV, HEA program, as part of the notice in paragraph (a)(1) of this section or under another process, it must receive written confirmation from the student that he or she accepts the loan; and

(ii) Before the institution disburses any grant under the title IV, HEA programs or pays a student any FWS wages, the institution must send the notice described in paragraph (a)(1) of this section to the student.

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Issue #12: Definition of excess cash and excess cash allowances.

Regulatory cite: §668.166(a) and (b)

Summary of Change: Modifies the definition of excess cash to include any Title IV funds received from the Department that an institution deposits or transfers into its Federal account. Eliminates the excess cash tolerances.

Tentative Agreement: Not fully discussed yet

Change:

§668.166 Excess cash.

(a) *General.* (1) The Secretary considers excess cash to be any amount of title IV, HEA program funds, other than Federal Perkins Loan Program funds, that an institution does not disburse to students or parents by the end of the third business day following the date the institution--

(i) Received those funds from the Secretary; or

(ii) Deposited or transferred to its Federal account previously disbursed title IV, HEA program funds received from the Secretary such as those resulting from award adjustments, recoveries, or cancellations.

(2) An institution must return promptly to the Secretary any amount of excess cash in its account or accounts.

Paragraph (b), Excess cash tolerances, is deleted.

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Issue #13: Treatment of FFEL and Direct Loan funds when a student withdraws before beginning class—make consistent with other programs

Regulatory Cite: §668.21, §682.604(d)(3) and (4), §682.207, §685.303(b)(3)

Summary of Change: To simplify and consolidate the requirements for the treatment of Title IV funds when a student does not begin attendance, this change would require that FFEL and Direct Loan funds be treated in the same manner as the current treatment for Title IV grant and Perkins Loan funds. That is, an institution would be responsible for returning any FFEL and Direct Loan funds that are disbursed to a student before the student begins attendance, even if those funds were disbursed directly to the student. In addition, this change would establish a 30-day timeframe for the return of funds and specify when a return is considered to have been made in a timely manner. The timely return specifications are the same as those currently found in §668.173, which are used for returns made in accordance with the Return of Title IV Funds requirements in §668.22. Institutions would not be responsible for returning loan funds that are disbursed directly to the student by the lender.

Tentative Agreement: Not fully discussed yet.

Change:

§668.21 Treatment of title IV grant and loan funds if the recipient does not begin attendance.

(a)(1) If a student does not begin attendance in a payment period or period of enrollment, the institution must return all title IV, HEA program funds that were credited to the student's account at the institution or disbursed directly to the student.

(2) The institution shall return those funds to the respective title IV, HEA programs as soon as possible, but no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance.

(b) For purposes of this section, the Secretary considers that a student has not begun attendance in a payment period or period of enrollment if the institution is unable to document the student's attendance at any class during the payment period or period of enrollment.

(c) In accordance with procedures established by the Secretary or FFEL Program lender, an institution returns title IV, HEA funds timely if—

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(1) The institution deposits or transfers the funds into the bank account it maintains under §668.163 no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance;

(2) The institution initiates an electronic funds transfer (EFT) no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance;

(3) The institution initiates an electronic transaction, no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance, that informs a FFEL lender to adjust the borrower's loan account for the amount returned; or

(4) The institution issues a check no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance. An institution does not satisfy this requirement if—

(i) The institution's records show that the check was issued more than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance; or

(ii) The date on the cancelled check shows that the bank used by the Secretary or FFEL Program lender endorsed that check more than 45 days after the date that the institution becomes aware that the student will not or has not begun attendance.

(d) Notwithstanding paragraph (a) of this section, for a disbursement of FFEL Stafford loan funds made directly by the lender in accordance with §682.207(b)(1)(v)(C) and (D) to a student who does not begin attendance—

(1) The institution is not responsible for returning the funds, but must immediately notify the lender when it becomes aware that the student will not or has not begun attendance; and

(2) The lender must issue a final demand letter to the borrower in accordance with §682.412.

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§682.604 Processing the borrower's loan proceeds and counseling borrowers.

(d)* * *

* * * * *

(3) If a student does not begin attendance in the period of enrollment, disbursed loan proceeds must be handled in accordance with §668.21 and §682.607.

* * * * *

§682.607 *Payment of a return of title IV, HEA program funds to a lender for a student who does not begin attendance or withdraws. General.* By applying for a FFEL loan, a borrower authorizes the school to pay directly to the lender that portion of a return of title IV, HEA program funds from the school required under §668.21 or §668.22, as applicable, that is allocable to the loan if the borrower does not begin attendance or withdraws. A school—

(a) Must pay that portion of the student's return of title IV, HEA program funds that is allocable to a FFEL loan to—

(1) The original lender; or

(2) A subsequent holder, if the loan has been transferred and the school knows the new holder's identity; and

(b) Must provide simultaneous written notice to the borrower if the school makes a payment of a return of FFEL program funds to a lender on behalf of that student.

§685.303 Processing loan proceeds.

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(b) * * *

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(3) If a student does not begin attendance in the period of enrollment, disbursed loan proceeds must be handled in accordance with §668.21.

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Issue #14: Single disbursement provision for Perkins and FSEOG.

Regulatory cite: §674.16(g) and §676.16(e)

Summary of Change: Eliminates the provision in both programs.

Tentative Agreement: Not fully discussed yet.

Change:

§674.16 Making and disbursing loans.

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Paragraph (g) is deleted.

§676.16 Payment of an FSEOG.

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Paragraph (e) is deleted.

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Issue #15: Post-withdrawal disbursement

Regulatory Cite: 34 CFR 668.22(a)(5)(ii)(B)(2)

Summary of Change: Under this change, an institution would no longer be required to notify and obtain the student's or parent's permission prior to making a direct disbursement of any grant funds that make up a post-withdrawal disbursement.

Tentative Agreement: Not fully discussed yet.

Change:

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

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(5)(i) A post-withdrawal disbursement must be made from available grant funds before available loan funds.

(ii)(A) If outstanding charges exist on the student's account, the institution may credit the student's account up to the amount of outstanding charges with all or a portion of any—

(1) Grant funds that make up the post-withdrawal disbursement in accordance with §668.164(d)(1) and (d)(2); and

(2) Loan funds that make up the post-withdrawal disbursement in accordance with §668.164(d)(1), (d)(2) and (d)(3) only after obtaining confirmation from the student or parent, in the case of a parent PLUS loan, that they still wish to have the loan funds disbursed in accordance with paragraph (a)(5)(iii) of this section.

(B)(1) The institution must disburse directly to a student any amount of a post-withdrawal disbursement of grant funds that is not credited to the student's account as soon as possible, but no later than 30 days after the date of the institution's determination that the student withdrew, as defined in paragraph (1)(3) of this section.

(2) The institution must offer to disburse directly to a student, or parent in the case of a parent PLUS loan, any amount of a post-withdrawal disbursement of loan funds that

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is not credited to the student's account, or for which the institution is not required to obtain confirmation to credit to the student's account, to the student, or the parent in the case of a parent PLUS loan, in accordance with paragraph (a)(5)(iii) of this section.

(3) The institution must make a direct disbursement of any loan funds that make up the post-withdrawal disbursement only after obtaining the student's, or parent's in the case of a parent PLUS loan, confirmation that they still wish to have the grant or loan funds disbursed in accordance with paragraph (a)(5)(iii).

(iii)(A) The institution must provide within 30 days of the date of the institution's determination that the student withdrew, as defined in paragraph (1)(3) of this section, a written notification to the student, or parent in the case of parent PLUS loan, that—

(1) Requests confirmation of any post-withdrawal disbursement of loan funds that the institution wishes to credit to the student's account in accordance with paragraph (a)(5)(ii)(A)(2), identifying the type and amount of those loan funds and explaining that a student, or parent in the case of a parent PLUS loan, may accept or decline some or all of those funds;

(2) Requests confirmation of any post-withdrawal disbursement of loan funds that the student, or parent in the case of a parent PLUS loan, can receive as a direct disbursement, identifying the type and amount of these title IV funds and explaining that the student, or parent in the case of a parent PLUS loan, may accept or decline some or all of those funds;

(3) Explains that a student, or parent in the case of a parent PLUS loan, who does not confirm that a post-withdrawal disbursement of loan funds may be credited to the student's account may not receive any of those loan funds as a direct disbursement unless the institution concurs;

(4) Explains the obligation of the student, or parent in the case of a parent PLUS loan, to repay any loan funds he or she chooses to have disbursed; and

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(5) Advises the student, or parent in the case of a parent PLUS loan, that no post-withdrawal disbursement of loan funds will be made, unless the institution chooses to make a post-withdrawal disbursement based on a late response in accordance with paragraph (a)(5)(iii)(C) of this section, if the student or parent in the case of a parent PLUS loan, does not respond within 14 days of the date that the institution sent the notification, or a later deadline set by the institution.

(B) The deadline for a student, or parent in the case of a parent PLUS loan, to accept a post-withdrawal disbursement under paragraph (a)(5)(iii)(A)(4) must be the same for both a confirmation of a direct disbursement of the post-withdrawal disbursement of loan funds and a confirmation of a post-withdrawal disbursement of loan funds to be credited to the student's account;

(C) If the student, or parent in the case of a parent PLUS loan, submits a timely response that confirms that they wish to receive all or a portion of a direct disbursement of the post-withdrawal disbursement of loan funds, or confirms that a post-withdrawal disbursement of loan funds may be credited to the student's account, the institution must disburse the funds in the manner specified by the student, or parent in the case of a parent PLUS loan, within 120 days of the date of the institution's determination that the student withdrew, as defined in paragraph (1)(3) of this section.

(D) If a student, or parent in the case of a parent PLUS loan, submits a late response to the institution's notice requesting confirmation, the institution may make the post-withdrawal disbursement of loan funds as instructed by the student, or parent in the case of a parent PLUS loan (provided the institution disburses all the funds accepted by the student, or parent in the case of a parent PLUS loan), or decline to do so.

(E) If a student, or parent in the case of a parent PLUS loan, submits a late response to the institution and the institution does not choose to make the post-withdrawal disbursement of loan funds, the institution must inform the student, or parent in the case of a parent PLUS loan, in writing of the outcome of the post-withdrawal disbursement request.

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(F) If the student, or parent in the case of a parent PLUS loan, does not respond to the institution's notice, no portion of the post-withdrawal disbursement of loan funds that the institution wishes to credit to the student's account, nor any portion that would be disbursed directly to the student, or parent in the case of a parent PLUS loan, may be disbursed.

(iv) An institution must document in the student's file the result of any notification made in accordance with paragraph (a)(5)(iii) of this section of the student's right to cancel all or a portion of loan funds or of the student's right to accept or decline loan funds, and the final determination made concerning the disbursement.

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Issue #16: Calculate Pell Grant payments for programs with standard terms, but monthly starts

Regulatory Cite: §690.63

Summary of Change: The change in §690.63 (a) (1) allows Pell Grant payments for programs with standard terms that have monthly starts to be calculated in the same manner as programs that have standard terms without monthly starts.

Tentative Agreement: Not fully discussed yet.

Change:

§690.63 Calculation of a Federal Pell Grant for a payment period.

* * * * *

(a)(1) *Programs using standard terms with at least 30 weeks of instructional time.* A student's Federal Pell Grant for a payment period is calculated under paragraphs (b) or (d) of this section if—

(i) The student is enrolled in an eligible program that—

(A) Measures progress in credit hours;

(B) Is offered in semesters, trimesters, or quarters;

(C) Requires the student to enroll for at least 12 credit hours in each term in the award year to qualify as a full-time student; and

(ii) The program uses an academic calendar that provides at least 30 weeks of instructional time in —

(A) Two semesters or trimesters in the fall through the following spring, or three quarters in the fall, winter, and spring, none of which overlaps any other term (including a summer term) in the program; or

(B) Any two semesters or trimesters, or any three quarters where —

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(1) The institution starts its terms for different cohorts of students on a periodic basis (e.g., monthly),

(2) The program is offered exclusively in semesters, trimesters, or quarters, and

(3) Students are not allowed to be enrolled simultaneously in overlapping terms and must stay with the cohort in which they start unless they withdraw from a term (or skip a term) and re-enroll in a subsequent term.

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Issue #17: Pro ration for Pell Grant payments for programs using clock hours or credit hours without terms

Regulatory Cite: §690.63

Summary of Change: The change in §690.63 (e) will revise the calculation of Pell Grant payments for programs using clock hours or credit hours without terms.

Tentative Agreement: Not fully discussed yet.

Change:

§690.63 Calculation of a Federal Pell Grant for a payment period.

* * * * *

(e) *Programs using credit hours without terms or clock hours.* (1) The Federal Pell Grant for a payment period for a student in a program using credit hours without terms or using clock hours is calculated by—

(i) Determining the student's Scheduled Federal Pell Grant using the Payment Schedule; and

(ii) Multiplying the amount determined under paragraph (e)(1)(i) of this section by the lesser of—

(A)

The number of credit or clock hours in a payment
period

The number of credit or clock hours in the program's
academic year

; or

(B)

The number of weeks of instructional time required for
a full-time student to complete the credit or clock
hours in the payment period

The number of weeks of instructional time in the
academic year

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(2) For purposes of paragraph (e)(1)(ii)(B) of this section, if a program does not have any full-time students, the institution uses the full-time standard for the program based on the definition in 34 CFR 668.2 to determine the number of weeks of instructional time required for a full-time student to complete the credit or clock hours in the payment period.

(Perhaps the following only goes in the preamble)

For a credit hour program without terms, the use of the full-time definition will always result in the numerator of the fraction in paragraph (e)(1)(ii)(B) simply being the number of weeks in the payment period. For a clock hour program, the use of the full-time definition will require the school to divide the clock hours in the payment period by the clock hours that a full-time student takes in a week to determine the numerator of the fraction, e.g., $450/30 = 15$, or $450/35 = 12.8$ (13)

(3) For the first payment period in a self-paced program an institution must use the number of weeks of instructional time required for a full-time student to complete the credit or clock hours in the payment period in paragraph (e)(1)(ii)(B) of this section based on the schedule a typical student would follow, as described in the institution's catalog, web site, or other publication. For second and subsequent payment periods in a self-paced program, an institution determines the number of weeks of instructional time required for a full-time student to complete the credit or clock hours in the payment period by extrapolating the time the student will need to complete those credit or clock hours based on the time it has taken the student to complete the hours the student has already taken.

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Issue #18: Minimum period for certifying a loan (including certifying a loan for a transfer student)

Regulatory Cite: §§682.603 and 685.301

Summary of Change: The changes in §§682.603 (f) (1) and 685.301 (a) (9) (i) allow a school to certify or originate a loan for a single term when the school has terms that are substantially equal in length and at least 9 weeks long; and also to certify or originate a loan for the remaining portion of the student’s annual loan limit to cover the portion of an academic year that the student has remaining when the student transfers to a new school, and then allow the school to certify or originate a full loan for the next full academic year.

Tentative Agreement: Not fully discussed yet

Change:

§682.603 Certification by a participating school in connection with a loan application.

* * * * *

(f)(1) The minimum period of enrollment for which a school may certify a loan application is--

(i) At a school that measures academic progress in credit hours and uses a semester, trimester, or quarter system, or has terms that are substantially equal in length with no term less than 9 weeks in length, a single term (e.g., a semester or quarter), or

(ii) Except as provided in paragraph (f)(1)(ii)(C), at a school that measures academic progress in clock hours, or measures academic progress in credit hours but does not use a semester, trimester, or quarter system or does not have terms that are substantially equal in length with no term less than 9 weeks in length, the lesser of-

(A) The length of the student's program (or the remaining portion of that program if the student has less than the full program remaining) at the school; or

(B) The academic year as defined by the school in accordance with 34 CFR 668.3.

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(C) For a student who transfers into a school with credit or clock hours from another school, and the current school would be certifying a loan for a period of enrollment that overlaps the period for which the prior school certified or originated a loan, the school may certify a loan for the remaining portion of the student's program or academic year, whichever is less. In this case the school may certify a loan for the remaining balance of the student's annual loan limit.

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§685.301 Origination of a loan by a Direct Loan school

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(a)(9)(i) The minimum period of enrollment for which a school may originate a Direct Loan application is--

(A) At a school that measures academic progress in credit hours and uses a semester, trimester, or quarter system, or has terms that are substantially equal in length with no term less than 9 weeks in length, a single academic term (e.g., a semester or quarter); or

(B) Except as provided in paragraph (a)(9)(i)(C), at a school that measures academic progress in clock hours, or measures academic progress in credit hours but does not use a semester, trimester, or quarter system or does not have terms that are substantially equal in length with no term less than 9 weeks in length, the lesser of-

(1) The length of the student's program (or the remaining portion of that program if the student has less than the full program remaining) at the school; or

(2) The academic year as defined by the school in accordance with 34 CFR 668.3.

(C) For a student who transfers into a school with credit or clock hours from another school, and the current school would be originating a loan for a period of enrollment that overlaps the period for which the prior school certified or originated a loan, the school may originate a loan for the remaining portion of the student's program or academic year, whichever is less. In this case

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the school may originate a loan for the remaining balance of the student's annual loan limit.

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Issue #19: Minor prior-year expenses.

Regulatory cite: §668.164(d)(1)

Summary of Change: Allows an institution to use without permission a student's current-year title IV funds to pay for prior-year charges, as long as those charges are less than \$100 and are for tuition and fees, room, or board.

Tentative Agreement: Not fully discussed.

Change:

§668.164 Disbursing funds.

* * * * *

(d) *Crediting a student's account at the institution.*

(1) Without obtaining the student's or parent's authorization under §668.165, an institution may use title IV, HEA program funds to credit a student's account at the institution to satisfy—

(i) Current year charges for tuition and fees;

(ii) Current year board charges, if the student contracts with the institution for board;

(iii) Current year room charges, if the student contracts with the institution for room; and

(iv) Prior award year charges for tuition and fees, or room or board that are less than \$100.

(2) After obtaining the appropriate authorization from a student or parent under §668.165, the institution may use title IV, HEA program funds to credit a student's account at the institution to satisfy—

(i) Current charges that are in addition to the charges described in paragraph (d)(1) of this section that were incurred by the student at the institution for educationally related activities; and

(ii) Minor prior award year charges if these charges are less than \$100 or if the payment of these charges does

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not, and will not, prevent the student from paying his or her current educational costs.