

Proposal Regarding Books and Supplies

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The language below includes proposed modifications and additions (blue text) to the Department's proposed modifications (red text) related to narrow circumstances under which institutions would be allowed to credit a student's ledger to include the cost of books and supplies when there is no way for a student to secure the course materials elsewhere. The proposal also preserves a student's ability to opt-out even if the materials would not be available or accessible elsewhere.

Proposed Language:

§ 668.164 (c)(1) and (2) - Crediting a student's ledger account

(c) Crediting a student's ledger account.

(1) An institution may credit a student's ledger account with title IV, HEA program funds to pay for allowable charges associated with the current payment period. Allowable charges are

(i) The amount of tuition, fees, and institutionally provided food and housing ~~room and board~~ assessed the student for the payment period or, as provided in paragraph (c)(1)(i)(B) of this section, the prorated amount of those charges if the institution debits the student's ledger account for more than the charges associated with the payment period;

(A) An institution may only include costs of books and supplies as a part of tuition and fees if ~~the institution complies with the opt-out provisions of paragraph (c)(1)(i)(B) of this section and the institution demonstrates there is a compelling health or safety reason to do so.~~ ~~the books and supplies—including digital or electronic materials—are not available or accessible to the students enrolled in the program from any other source because—~~

(1) ~~the student is a confined or incarcerated individual as defined under 34 CFR 600.2;~~

(2) ~~the institution documents, on a current basis, that the books or supplies consist of content excerpted from multiple sources and bundled by the institution, and the institution certifies to the Department on an annual basis that such books and supplies are reasonably priced in relation to the cost of securing and making such content available because, if obtained separately, the books and supplies would cost more than the bundled cost offered by the institution; or~~

(3) ~~the institution documents, on a current basis, that the books and supplies were created by the institution because the same or~~

substantially similar materials are not available or accessible from another source, and the institution certifies to the Department on an annual basis that such books and supplies are customized to the institution's curriculum, fill a specific pedagogical need that cannot be fulfilled in any other way, and are reasonably priced in relation to the cost of developing such content.

(B) An institution that includes books and supplies as part of tuition and fees pursuant to paragraph (c)(1)(i)(A) of this section must—

(1) Provide a way for a student to obtain those books and supplies no later than the seventh day of the payment period;

(2) Have a written policy under which the student is informed of the cost of the fee, or the prorated cost if included in tuition, and may opt out of the way the institution provides for the student to obtain books and supplies;

(3) Publish a clear and conspicuous disclosure on the institution's website and in its catalog setting forth the fee for books and supplies, the existence of an option for a student to opt out of the fee and instructions for doing so, and an explanation that the student bears the obligation to find alternate sources for the books and supplies upon opting out of the fee;

(4) Provide each student a direct, written notice at the time of enrollment, and again at least two weeks before the start of each academic term, that students may opt out of the fee, including clear and conspicuous instructions for opting out and an explanation that the student bears the obligation to find alternate sources for the books and supplies upon opting out of the fee; and

(5) Provide a prominent web-based opt-out capability that is available to the student through the first day of the course or the last date of the add/drop period, whichever is later.

~~(B)~~(C) Any title IV, HEA program funds allocated for cash value meal plans for recipients of title IV, HEA program funds must be fully utilized for the benefit of the respective students. No institution may retain unused cash value meal plan funds that were paid for with title IV, HEA program funds, and any remaining balance at the end of the payment period must be returned to the student as soon as possible but no later than 14 days after the end of the payment period;. A school is not required to pay a remaining balance that is less than \$1.00. With a student's written authorization under § 668.165(b)(1)(ii)(B), an institution may—

(1) Retain unused cash value meal plan funds through the earlier of the end of the academic year or 14 days after the end of the payment period in which the student ceases enrollment at the institution; or

(2) Apply unused cash value meal plan funds to unpaid allowable charges; and

(ii) The amount incurred by the student for the payment period for purchasing books, supplies, and other educationally related goods and services provided by the institution for which the institution obtains the student's or parent's authorization under § 668.165(b), provided that –

(A) For each payment period, the institution individually discloses the cost of such books, supplies, and other educationally related goods and services to the student prior to any authorization being signed and the student or parent chooses to purchase those materials provided by the institution; and

(B) The institution makes those books or supplies available to students at or below competitive market rates;~~and~~

Rationale:

This proposal adds narrow circumstances under which institutions may include costs of books and supplies as a part of tuition and fees when those books and supplies are not available from another source in the same or a substantially similar form.

Some institutions deploy integrated assets, built by excerpting content from a larger catalogue and curating those excerpts to fit the curriculum. Doing so allows institutions to control costs. Rather than pay more to require students to access everything a publisher offers, including content that is irrelevant to the student's course curriculum, institutions can create custom experiences that align to course competencies and give students only what they need. As a result, students only pay for the content that is relevant to their course competencies as opposed to paying for irrelevant content or subscriptions that would otherwise be bundled together if purchased on the open market. Additionally, this allows institutions to directly integrate the content into the course for a better student experience.

Similarly, some institutions use course packets that are a collection of articles and chapters aligned to competencies to create a custom, more affordable set of readings for students. Rather than requiring students to purchase multiple textbooks and/or content subscriptions in a course, institutions can excerpt only what is relevant to the course competencies that are being taught.

Another category of materials is interactive books, supplies, and media created in-house by an institution or its faculty that is customized to a course's curriculum and the relevant competencies. These can include immersive digital experiences and other innovative content that is created to fill a particular educational need due to the unavailability of the same or substantially similar content in the marketplace. Such materials inspire and support learning and create a better learning experience.

Notwithstanding the importance of these categories of materials, this proposal retains an opt-out option and disclosure requirements to promote informed decision-making by students and appropriate transparency to the public, the Department, accreditors, and state regulators.