

Proposal from Jillian Klein (Proprietary Institutions of Higher Education)
on treatment of Title IV funds when a student withdraws (§
668.22(b)(3)(i))

Submitted January 11, 2024

The Department proposes requiring institutions to take attendance in distance education programs to increase the accuracy of R2T4 calculations in such programs. The language proposed below (blue text) to the Department's existing regulatory proposal (red text) would better align with the Department's intent, as clarified during negotiations, and would help prevent inaccurate calculations that would unfairly disadvantage students in certain programs.

Proposed Language:

(b) *Withdrawal date for a student who withdraws from ~~an institution~~ a course that is required to take attendance.*

(i) An institution is required to take attendance in a course if—

An outside entity (such as the institution's accrediting agency or a state agency) has a requirement that the institution take attendance;

The institution itself has a requirement that its instructors take attendance; ~~or~~

The institution or an outside entity has a requirement that can only be met by taking attendance or a comparable process, including, but not limited to, requiring that students in a program demonstrate attendance in the classes of that program, or a portion of that program; ~~or~~

~~The institution offers a program~~ The course is offered entirely through distance education as defined in 34 CFR 600.2, except in the case of a course that is part of a terminal degree program, or a direct assessment program as defined in 34 CFR 668.10.

Rationale:

During the first week of negotiations, the Department clarified that it does *not* intend to apply this change to an entire institution if the institution offers some programs through distance education. The proposed references to “a course” align with that intent. We also added “entirely” to exclude hybrid courses offered via distance education and in-person attendance.

The two proposed exceptions, for terminal degree programs and direct assessment programs, also align with the Department's stated intent to (1) increase the accuracy of R2T4 calculations, (2) promote good stewardship of Federal dollars, and (3) assist students during hardships.

Students pursuing terminal degrees—such as doctoral students—often spend a significant amount of time outside of the course room conducting research, writing, editing, and revising their coursework. Relying on the taking of attendance for this population of students would unfairly and inaccurately fail to account for the significant time and effort these students devote to their coursework outside of the course room. Moreover, because these circumstances similarly apply to doctoral students at physical campuses, failing to exempt this population from the Department’s proposal could result in the unequal treatment of doctoral students in distance learning programs as compared to their on-campus peers.

Similarly, students in direct assessment programs can devote a significant amount of time to building knowledge, skills, and abilities outside of a traditional online course room, in a format that is removed from seat time. Importantly, direct assessment programs undergo a rigorous review and approval process by the Department that thoroughly addresses, among other things, issues related to distance education requirements. This approval process includes descriptions of how the direct assessment program is structured, how learning is assessed, how the institution assists students to gain the necessary knowledge, and the methodology the institution uses to determine the equivalent number of credit or clock hours. Moreover, such programs must be consistent with the requirements of the institution’s accreditation agency or State approval agency.