

February 2004

GEN-04-04
FP-04-03

SUBJECT: General guidance for helping Title IV participants affected by a disaster.

SUMMARY: This letter supplements the 2003-2004 Federal Student Aid Handbook and Disaster Letter 99-28 by providing guidance to assist Title IV participants affected by a disaster.

Dear Colleague:

This letter serves to assist Title IV participants, including students, borrowers, institutions, lenders, and guaranty agencies, in the event they are impacted by a Federally-declared disaster (disaster). In the past, the Secretary has assisted victims of disasters in their recovery by providing certain regulatory relief to students, as well as to institutions, lenders, and guaranty agencies, in their administration of the student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended (HEA). In an effort to ensure that affected individuals, as well as institutions, lenders, and guaranty agencies, have the means to act quickly whenever a disaster is declared by the President, the Secretary is providing general guidance for regulatory relief in these situations.

Unless stated otherwise, this regulatory relief applies to all Title IV loan borrowers, students, and their families who, at the time of a disaster, were residing in, employed in, or attending an institution located in an area designated as a Federally-declared disaster area. In addition, it applies to institutions, lenders, and guaranty agencies if they are located in such areas. Those designations are available by date of declaration on the Federal Emergency Management Agency's (FEMA) Web site (www.fema.gov/disasters).

The information in this letter supplements the 2003-2004 Federal Student Aid Handbook, as well as Disaster Letter 99-28, published in August 1999, which provided separate guidance to lenders and guaranty agencies on the treatment of borrowers who have been affected by a disaster. The guidance in this letter will be incorporated into the 2004-2005 Federal Student Aid Handbook and updated annually thereafter. Discussions are presented alphabetically within each general topic. [Note: All regulatory references are to 34 CFR.]

A Title IV participant that deviates from otherwise required actions in its administration of the Title IV programs on the basis of the guidance in this letter must document that fact and indicate what alternative procedures were followed. As indicated in this letter, and should further relief be necessary at any point, institutions are encouraged to contact their Case Management Team representative. For a list of Case Management Team contacts, go to the schools portal at <http://fsa4schools.ed.gov> and click on the "Help Center" button, then choose "Contacts," and then "Case Management Teams." Lenders and guaranty agencies in the Federal Family Education Loan (FFEL) Program should contact Federal Student Aid's Financial Partners regional staff serving the location of the lender or agency.

Anyone needing further general information may contact the FSA Customer Service Call Center

as follows:

- Via Phone, Call Center staff members are available Monday through Friday between the hours of 9:00 AM and 5:00 PM (Eastern Time) at 1-800-433-7327. After hours calls will be accepted by an automated voice response system. Callers leaving their name and phone number will receive a return call the next business day.
- FAX inquiries should be sent to the Call Center at (202) 275-5532.
- E-mail inquiries should be directed to the fsa.customer.support@ed.gov e-mail address.
- Via the Schools Portal on the Internet by going to <http://fsa4schools.ed.gov/> then clicking on the "Help Center" followed by the "Got a Question?" link.

We hope that these options for regulatory relief will be of use to you in assisting students whose families have been affected by a disaster.

Sincerely,

Sally L. Stroup
Assistant Secretary for
Postsecondary Education

Attachment

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General Guidance for Disasters
February 2004

General Provisions (All Title IV Programs)

- Agreements to Permit Study at Another Institution (§668.5) - If an institution is unable to continue to provide a student's eligible program because of a disaster, the Secretary strongly encourages the institution to establish a written agreement with another institution to enable the student to continue his or her academic program while receiving Title IV assistance. The requirements for such an agreement are found in §668.5 of the Student Assistance General Provisions regulations.
- Campus Security Reporting and Equity in Athletics Disclosures (§668.41) - If an institution is unable to provide the appropriate data to the Department for its Annual Campus Security Report or its Equity in Athletics Disclosure (EADA) Report by the established deadlines, because its administrative capability was directly impacted by a disaster, it should contact its Case Management Team to seek guidance in meeting the disclosure requirements.
- Length of Academic Year (§668.2) - If, as a direct result of a disaster, institutions are temporarily closed for a period of time that impacts the length of their academic year, we will assist such institutions on a case-by-case basis to determine the continued eligibility of their programs and their students for Title IV assistance. Such institutions should promptly contact their Case Management Team to discuss the specifics of their situation.

Cash Management (Part 668, Subpart K)

For institutions affected by a disaster, the Secretary will work with institutions to address specific problems arising from regulatory requirements regarding Credit Balances, Notices and Authorizations, Excess Cash, and the handling of FFEL Program Fund Proceeds. Specifically, the Secretary, through the appropriate Case Management Team, will address concerns about the following regulatory requirements on a case-by-case basis:

- Credit Balances (§668.164(e))
- Notices and Authorizations (§668.165(a)(3)(i) and §668.165(b)(4)(iii))
- Borrower Request for Loan Cancellation (§668.165(a)(4)(ii))
- Excess Cash (§668.166(a))
- FFELP Funds (§668.167(b)(1))
- Institutional Eligibility, Financial Responsibility, and Administrative Capability (§§600.40(a)(1)(iii), 668.15, 668.16, and 668.171)
- Late Disbursements (§668.164(g)) - The regulations allow for a late disbursement of Title IV funds under certain conditions and within certain timeframes. These regulations were revised

on November 1, 2002, with an effective date of July 1, 2003. The revised regulations provide the needed flexibility to accommodate students impacted by a disaster.

Deadlines related to other withdrawal issues, including post-withdrawal disbursements, are addressed under the “Institutional Charges, Refunds, and Return of Title IV Funds Calculations” section of this letter.

- Lost Student Records (§668.24) - The Secretary recognizes that records and documentation institutions are required to keep on file may no longer be available or legible because of a disaster. Affected institutions are required to attempt to reconstruct financial aid records lost because of a disaster, but will not be held responsible for records and documentation that, because of disaster damage, cannot be reconstructed. The institution must document that the records were lost due to a disaster.
- Need Analysis - No special aid received by victims of a disaster from the Federal Government or from a State, for the purpose of providing financial relief, will be counted as income, other resources, or other financial assistance for the purpose of calculating a family's Expected Family Contribution (EFC). This aid may, for example, take the form of grants or low-interest loans.
- Professional Judgment - Section 479A of the HEA specifically gives the financial aid administrator (FAA) the authority to use professional judgment to make adjustments on a "case-by-case" basis to the cost of attendance or to the values of the items used in calculating the Expected Family Contribution (EFC) to reflect the student's special circumstances. The use of professional judgment in Federal need analysis is discussed in the Federal Student Aid Handbook.

The Secretary encourages FAAs to use professional judgment in order to reflect more accurately the financial need of students and families affected by a disaster. An FAA still must make adjustments on a "case-by-case" basis and clearly document the student's file with the reasons for any adjustment.

As usual, any professional judgment decisions made by an FAA that will affect a student's eligibility for a Federal Pell Grant must be reported to the Central Processing System (CPS).

- Satisfactory Academic Progress (§668.34 and §668.16(e)) - In the situation in which a student fails to meet the institution's satisfactory academic progress standards due to a disaster, the institution should apply the exception provision of “other special circumstances” contained in 668.34(c)(3) of the regulations. The institution must document in the student's file that the student's failure to maintain satisfactory academic progress was due to a disaster.
- Verification (Part 668 Subpart E) - The Secretary will not enforce the verification requirements during the award year for those applicants selected for verification whose records were lost or destroyed because of a disaster. An institution must document when it does not perform verification for this reason. For these students, Verification Status Code “S” may be used to report a Federal Pell Grant disbursement.

Institutional Charges, Refunds, and Return of Title IV Funds Calculations (§668.22)

If a student withdraws because of a disaster, the institution must perform the Return of Title IV Funds calculations in accordance with §668.22, as it must for any student who withdraws. The statutory provisions for the Return of Title IV Funds calculations include the concept that a student “earns” a portion of the aid for the time that he or she was enrolled. Essentially, any disbursed Title IV aid that is in excess of the amount earned must be returned to the programs. In many cases, the calculations require the institution to return funds to the Title IV loan program from which the student borrowed. This, of course, will benefit the student in that it will reduce the student's loan debt. If the disbursed amount is less than the calculated amount of earned aid, the student is entitled to the difference as a post-withdrawal disbursement.

- Deadlines and Time Frames - The Secretary, through the appropriate Case Management Team, will address concerns about the deadlines and time frames that are part of the Return of Title IV Funds requirements on a case-by-case basis.
- Institutional Charges and Refunds - We strongly encourage institutions to provide a full refund of tuition, fees, and other institutional charges, or to provide a credit in a comparable amount against future charges for students who withdraw from school as a direct result of a disaster. We also urge institutions to consider providing easy and flexible re-enrollment options to such students. However, before an institution makes a refund of institutional charges, it must perform the required Return of Title IV Funds calculations based upon the originally assessed institutional charges. After determining the amount that the institution must return to the Title IV Federal student aid programs, any reduction of institutional charges should take into account the funds that the institution is required to return. In other words, we do not expect that an institution would both return funds to the Federal programs, and also provide a refund of those same funds to the student.
- Leaves of Absence - A leave of absence that meets the definition of an approved leave of absence generally applies to clock hour or non-term programs. It is unlikely that a leave of absence at a term-based institution would meet our definition of an approved leave of absence.

When requesting a leave of absence, a student who was directly affected by a disaster need not provide that request in writing. The institution's documentation of its decision to grant the leave of absence must include the reason for the leave of absence and the reason for waiving the required written request.

- Post-Withdrawal Disbursements - The Secretary, through the appropriate Case Management Team, will address concerns about the time frame for allowing a student (or parent) to respond to the offer of a post-withdrawal disbursement on a case-by-case basis.
- Treatment of Title IV Credit Balances - If a Title IV credit balance exists for any reason when a student withdraws, including as a result of an institution's refund policy, that credit balance must first be applied to any Title IV grant overpayment that exists as a result of the student's withdrawal.

Federal Pell Grant Program

- Deadline for Reporting Disbursement Records (§690.83) - Normally, an institution must submit to the Department a Federal Pell Grant disbursement record for a student not later than 30 calendar days after the institution makes a payment to the student. In addition, if the institution becomes aware that previously-made reports of payments or expected payments for a student are no longer accurate, the institution must submit an accurate disbursement record for that student to the Department not later than 30 calendar days after becoming aware of the need to make the change.

The Secretary, through the appropriate Case Management Team, will address concerns about the deadlines for reporting Federal Pell Grant disbursement records on a case-by-case basis.

- Final Federal Pell Grant Reporting Deadline - Upon an institution's request, we will grant an extension to the reporting deadline of final Federal Pell Grant payments if the institution is unable to meet the published deadline because of a disaster. Affected institutions should make such a request, as soon as they are able, by one of two methods. You can submit a request via the COD web site (<http://www.cod.ed.gov>) on the "Request Post Deadline Processing" screen located on the left hand side of the menu under the School tab. Alternatively, you may make such a request by contacting Pell Grant Customer Service at 800-474-7268.

Campus-Based Programs

Common Items

- Allocation Reduction Due to Underutilization (§673.4(d)(3)) - The HEA requires that if an institution returns more than 10 percent of its allocation under the Federal Perkins Loan, Federal Work-Study (FWS), or Federal Supplemental Educational Opportunity Grant (FSEOG) program, the institution's allocation for that program for the second succeeding award year will be reduced by the amount unexpended. The HEA authorizes the Secretary to waive this reduction for an institution if enforcing the reduction would be contrary to the interest of the program. The Secretary would consider the failure of an institution to expend funds solely due to a disaster as an appropriate waiver criterion. An institution must submit a request for a waiver of the underutilization penalty along with a statement that explains the reason for its failure to comply with the requirement. Affected institutions should make such a waiver request as soon as they are able by contacting the Campus-Based Call Center at 877-801-7168 for waiver submission guidelines.
- Filing Deadline for FISAP - The Secretary will consider carefully, on a "case-by-case" basis, the effect of a disaster on any institution's ability to meet required reporting deadlines.

If an institution is having trouble filing its complete Fiscal Operations Report and Application to Participate (FISAP) by the published deadline because of a disaster, we will assist the institution in meeting the submission deadline. Affected institutions should make a request for assistance as soon as they are able by contacting the Campus-Based Call Center at 877-801-7168.

Federal Work-Study (FWS) Program

- Community Services (§675.2) - The Secretary encourages institutions to employ their FWS students in the cleanup and relief efforts for the communities affected by a disaster. These efforts would be considered part of the institution's community services activities under the FWS Program.
- Community Service Expenditure Requirement (§675.18(g)) - The HEA requires an institution to use at least 7 percent of the total amount of its FWS Federal funds granted for an award year to compensate students employed in community service, except that the Secretary may waive this requirement if the Secretary determines that enforcing it would cause hardship for students at the institution. The Secretary would consider the failure of an institution to expend at least 7 percent of its FWS allocation for community service due to this disaster as an appropriate basis for a waiver. An institution must submit a request for a waiver along with a statement that explains the reason for its failure to comply with the requirement. Affected institutions should make such a waiver request as soon as they are able by using the annually-published waiver submission guidelines, or by contacting the Campus-Based Call Center at 877-801-7168.

Federal Perkins Loan Program

- Borrowers in an "In-School" Status (§674.31) - The Secretary believes that any borrower who was in an "in-school" status at the time of a disaster and was unable to complete course requirements or enroll in classes should continue to be in an "in-school" status during the period of disaster-related nonattendance until such time as the borrower withdraws or re-enrolls in the next regular enrollment period, whichever is earlier. The period of disaster-related nonattendance should not require a borrower to enter or use any of his or her grace period. The institution should document this reason for continued "in-school" status in the student's file.

This guidance does not affect the way an institution should report a borrower's enrollment status on its Student Status Confirmation Report.

- Borrowers in Default-Due Diligence - The Secretary, through the appropriate Case Management Team, will address concerns about the billing and collection activities required by Part 674, Subpart C - Due Diligence on a case-by-case basis.
- Borrowers in Initial or Post-Deferment Grace Periods (§674.42) - The Secretary, through the appropriate Case Management Team, will address concerns about borrowers in initial and post-deferment grace periods on a case-by-case basis.

- Borrowers in Repayment (§674.33) - The Secretary authorizes the institution to grant forbearance, for a period not to exceed three months, to a borrower who is in repayment at the time of a disaster but is unable to continue to repay the loan due to the disaster. The legislation governing the Perkins Loan Program requires that interest will accrue during any period of forbearance. A borrower may request this forbearance orally, or in writing, and is not required to submit documentation to be considered eligible for this forbearance. This period of forbearance is counted toward the 3-year maximum limit on the number of years of forbearance that may be granted to a borrower. An institution must document this forbearance in the borrower's file. In order to receive forbearance beyond the three-month period, the borrower must make a written request to the institution and provide supporting documentation.

Federal Family Education Loan (FFEL) Program

- Administrative Forbearance (§682.211(f)(11)) - In accordance with the regulations, and as previously discussed in Disaster Letter 99-28 (published on August 5, 1999), loan holders may grant an administrative forbearance for up to three months to borrowers who have been adversely affected by a Federally declared disaster. The holder may grant forbearance for up to three months and must document the reasons why it granted the forbearance, but does not need to obtain supporting documentation or a signed written agreement from the borrower.
- Converting the Borrower to Repayment (§682.209(a) and §682.210) - The Secretary believes that it is in the best interest of the FFEL Program to consider each Federal Stafford loan that is in an “in-school” status on the date the borrower's attendance at the institution was interrupted due to a Federally declared disaster to be (or have been) in an "in-school" status and to continue each loan in that status until such time as the borrower withdraws or re-enrolls in the next regular enrollment period, whichever is earlier. This period of disaster-related nonattendance should not result in a borrower entering or using any of his or her grace period.

A borrower whose FFEL loan was in an “in school” deferment status on the date disaster conditions interrupted normal operations at the institution shall be treated as if the loan continues in an “in school” deferment status during this same period of disaster-related nonattendance.

This guidance does not affect the way an institution should report a borrower’s enrollment status on its Student Status Confirmation Report. Borrowers (or a member of the borrower’s family or other reliable source) affected by a disaster should notify their loan holder(s) of their status.

- Guaranty Agency and Lender Disbursement of Loan Proceeds - The Secretary authorizes lenders not to disburse loan proceeds to institutions in the affected area according to the originally established disbursement schedules as required under §682.207(b)(1)(i)(B) if they have been informed that an institution has delayed opening for a scheduled term or has ceased operations for an undetermined period of time. Lenders should await revised disbursement schedules from the affected institutions. Institutions are also urged to request revised disbursement dates.

The Secretary instructs guaranty agencies and lenders to revise information on loan periods, graduation dates, and so forth, on the loan records related to these disbursements as the information becomes available. This instruction means that a borrower need not reapply for the loan. This also will allow a student to receive his or her loan proceeds according to a schedule that fits the institution's new academic schedule.

- Submission of Student Status Confirmation Reports (§682.610(c)) - If an institution is unable to complete and return a Student Status Confirmation Report (SSCR) to the National Student Loan Data System (NSLDS) according to the established schedule as a direct result of a disaster, it must contact NSLDS Customer Service at 1-800-999-8219 to modify its reporting schedule. An institution using the National Student Clearinghouse should contact the Clearinghouse to see if its enrollment data submission schedule needs to be adjusted. If an institution receives a warning letter from NSLDS regarding missed reporting deadlines, it should contact NSLDS Customer Service to ensure that reporting schedule modifications have been made.

William D. Ford Federal Direct Loan Program – The Secretary will treat Direct Loan borrowers in accordance with the administrative forbearance guidance provided in the FFEL section above.

- Repayment of Direct Subsidized and Direct Unsubsidized Loans (§685.204 and §685.207) - The Secretary believes that it is in the best interest of the Direct Loan Program to consider each Direct Subsidized and Direct Unsubsidized loan that had not entered repayment on the date the borrower's attendance at the institution was interrupted due to a disaster declared by the President to be (or have been) in an "in-school" status and to continue each loan in that status until such time as the borrower withdraws or re-enrolls in the next regular enrollment period, whichever is earlier. This period of disaster-related nonattendance should not result in a borrower entering or using any of his or her grace period.

A borrower whose Direct loan was in an “in school” deferment status on the date disaster conditions interrupted normal operations at the institution shall be treated as if the loan continues in an “in school” deferment status during this same period of disaster-related nonattendance.

This guidance does not affect the way an institution should report a borrower’s enrollment status on its Student Status Confirmation Report. Borrowers (or a member of the borrower’s family or other reliable source) affected by a disaster should notify their loan holder(s) of their status.

- Submission of Promissory Note, and Loan Origination and Disbursement Records (§685.301(d)) - This section requires institutions to submit the promissory note, loan origination record, and initial disbursement record for a loan to the Secretary no later than 30 days following the date of the initial disbursement. The Secretary, through the appropriate Case Management Team, will address concerns about the promissory note, loan origination records, and initial and subsequent disbursement records on a case-by-case basis.

- Submission of Student Status Confirmation Reports (§685.309(b)) - If an institution is unable to complete and return a Student Status Confirmation Report (SSCR) to the National Student Loan Data System (NSLDS) according to the established schedule as a direct result of a disaster, it must contact NSLDS Customer Service at 1-800-999-8219 to modify its reporting schedule. An institution using the National Student Clearinghouse should contact the Clearinghouse to see if its enrollment data submission schedule needs to be adjusted. If an institution receives a warning letter from NSLDS regarding missed reporting deadlines, it should contact NSLDS Customer Service to ensure that reporting schedule modifications have been made.