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Introduction



The purpose of this publication is to describe how a school becomes eligible to participate in the Student Financial Assistance (SFA) Programs and to explain the administrative and fiscal requirements of SFA Program participation. In addition, this publication discusses other issues relevant to the general administration of the SFA Programs.

This introduction provides a brief overview of each chapter and lists the major changes to the content of each.

Section 492 of the Higher Education Act requires the Department to obtain input from the financial aid community in the development of proposed regulations for the SFA Programs. The Department is obtaining this input through regional meetings and through a process called “negotiated rulemaking.”

In negotiated rulemaking, the Department meets with representatives of many areas of the financial aid community, such as students, schools, and guaranty agencies, to obtain advice and recommendations for effective implementation through regulation of SFA Program requirements.

Most of the new statutory provisions of the Amendments of 1998, Public Law 105-244 (the Amendments of 1998) are subject to the requirements of the negotiated rulemaking process. At the time this Handbook goes to print, the Department is in the middle of that process. As a result, guidance for implementation of these provisions of the Amendments of 1998 is under discussion and is not available for this publication. Interim guidance may be issued on the Department’s “Information for Financial Aid Professionals” web site after these provisions are discussed further with the higher education community during the negotiated rulemaking process.

This publication does contain summaries of the provisions of the Amendments of 1998 that affect institutional eligibility and participation in the SFA Programs. These items are marked by the following symbol:



New information and clarifications of existing provisions are indicated with the following symbols:



Major Changes by Chapter:

Chapter 1: Institutional and Program Eligibility

Chapter 1 explains the statutory definitions for eligible institutions and program eligibility requirements.

- The Amendments of 1998 made the following changes that effect this chapter:
 - △ The eligible institution definitions are consolidated in the law.
 - △ Schools are required to provide evidence of their authority to operate in a state.
 - △ Student eligibility is extended to some home-schooled students.
 - △ Clarification of the definition of a branch campus is provided.
 - △ The percentage of revenue from the SFA Programs that a proprietary school may derive is changed from 85% to 90%.
 - △ The Incarcerated Student Limitation waiver is expanded.
 - △ An exemption from bankruptcy provision for some schools that provide health care services are added.
 - △ Requirements for foreign medical schools now apply to foreign veterinary schools.
- The effect of the Solomon-Pombo Amendments on the SFA Programs is discussed.

Chapter 2: General Participation Requirements

Chapter 2 is an overview of the general requirements for SFA Program participation.

- The Amendments of 1998 made the following changes that effect this chapter:
 - △ An exemption is added for some schools from the required submission of a default management plan.
 - △ The requirement that a school submit information related to athletically related student aid is moved, with some modifications, from the Program Participation Agreement section of the law to the Equity in Athletics section of the law.
 - △ Schools are required to make a good faith effort to distribute voter registration forms unless the school is in a state that has in effect the motor vehicle registration provision of the National Voter Registration Act.
 - △ Clarification that a school must provide a copy of its contract with a third-party servicer only upon request is provided.

Chapter 3: Administrative Capability

Chapter 3 discusses the requirements a school must meet to demonstrate that it is administratively capable of participating in the SFA Programs.

- Information is included on Action Letter GEN-97-11, published October 1997, that provides additional guidance on the implementation of the electronic processes requirements.
- The Amendments of 1998 made the following changes that effect this chapter:
 - △ The Department must notify schools, guaranty agencies, lenders, interested software providers and others of software and hardware requirements by December 1 prior to the beginning of the award year.
 - △ An exemption is provided for some schools from required submission of a default management plan.
 - △ A school is ineligible to participate in the Pell Grant Program if it loses eligibility to participate in the FFEL or the Direct Loan programs due to high default rates.
- Information is provided on the Department's "fax broadcast" service.

Chapter 4: Financial Responsibility

Chapter 4 describes the financial responsibility requirements for all schools participating in the SFA Programs.

- The Amendments of 1998 made the following changes that effect this chapter:
 - △ The criteria used to determine the financial responsibility of a school is revised to be based on whether it meets certain ratios that demonstrate financial responsibility. Previous criteria required the Department to consider operating losses, net worth, asset-to-liabilities ratios, or operating fund deficits.
 - △ Public schools are included with for-profit and nonprofit institutions with respect to taking into consideration differences in generally accepted accounting principles.
 - △ The Department is permitted to determine what third-party financial guarantees are acceptable in order for a school to be considered financially responsible even though it failed to meet other mandated measures of financial responsibility.
- This chapter includes a discussion of the November 25, 1997 final regulations that substantially revised the financial responsibility requirements.

Chapter 5: Cash Management

Cash management rules are discussed in Chapter 5.

- Final regulations (the “financial responsibility regulations”) published on November 25, 1997 added the cash monitoring payment method. This new payment method is discussed here.
- This chapter provides information from “Dear Colleague” letter P-98-5, which invited schools to consider volunteering to be the first participants in the just-in-time payment method by participating in a pilot program.
- The Department has converted to the Education Central Automated Processing System.
- The Amendments of 1998 provide exemptions, under certain circumstances, to schools with low default rates from multiple disbursement requirements and the 30-day delay requirements.
- Clarification on the definition and handling of SFA credit balances is provided.

Chapter 6: Refunds and Repayments

Chapter 6 explains how SFA Program funds are handled for students who withdraw from school.

- The Amendments of 1998 changed substantially the way funds paid toward a student’s education are to be handled when a recipient of SFA Program funds withdraws from school. Schools are not required to implement these new provisions until October 7, 2000. However, a school may choose to implement the new provisions prior to that date. This change to the law is discussed here.
- The Amendments of 1998 allow the Department to assess a penalty, equivalent to the penalty applicable to nonpayment of taxes, for a willful failure to pay a refund.
- Clarification is provided on the definition of institutional charges. This clarification was published in a Policy Bulletin that was published on the Information for Financial Aid Professionals (IFAP) web site on January 7, 1999.
- Clarification is provided on the definition of “aid received,” including a discussion of institutional scholarships and loans.
- The requirements of the cash management regulations for the treatment of excused absences now apply, with slight modification, to the calculation of refunds.
- The Department has determined that a school may use its own funds to eliminate remaining Direct Loan and Perkins Loan balances. A school was already permitted to use its own funds to eliminate remaining FFEL balances.

Chapter 7: Consumer Information

Chapter 7 provides information on the requirements for the consumer information that a school must provide to students, the Department, and others.

- The Amendments of 1998 made the following changes that effect this chapter:

Basic Consumer Information Requirements

- △ A school may use electronic media to provide required consumer information to students.
- △ Each year a school must provide to enrolled students a list of the information it must disseminate under the Higher Education Act of 1965, as amended, and the Family Education Rights and Privacy Act (FERPA) and the procedures for obtaining the information.
- △ The Department must provide information describing prepaid tuition and savings programs, and must include on its Internet site links to databases with information on public and private financial assistance programs and links to resources from which students may obtain information about fraudulent and deceptive financial aid practices.

Campus Security Requirements

- △ Schools must submit their crime statistics annually to the Department. The Department is required to make copies of these statistics available to the public and must submit to Congress a comprehensive report on crime statistics by September 1, 2000.
- △ Changes are made to the definition of a campus.
- △ The list of crimes that a school must include in its report is expanded.
- △ Schools must make, keep and maintain daily logs of crimes reported to police or security departments.

Student Right to Know Requirements

- △ Disclosures must be made by July 1 of each year.
- △ Schools may provide supplemental information about students who were excluded from the completion rate calculation or for students transferring into the institution or information showing the rate at which students transfer out of the institution.
- △ The NCAA is allowed to distribute graduation rate information to all secondary schools in the U.S. to satisfy the distribution requirements for prospective student athletes' guidance counselors and coaches.

Equity in Athletics Requirements

- △ The requirement that a school submit information related to athletically related student aid is moved from the Program Participation Agreement section of the law to the Equity in Athletics section of the law.

Chapter 8: Recordkeeping and Disclosure

Chapter 8 discusses the requirements for maintaining and disclosing records for the SFA Programs.

- No major changes.

Chapter 9: Agreements Between Schools

Chapter 9 discusses the use of agreements between schools to pay a student who is taking courses in an eligible program at more than one school.

- No major changes.

Chapter 10: Applying for and Maintaining Participation in the SFA Programs

Chapter 10 explains how to apply for SFA participation, changes that can affect a school's participation and how to report these changes, the Quality Assurance Program, and the Experimental Sites Initiative.

- The Amendments of 1998 made the following changes that effect this chapter:
 - △ A school is allowed to provide a copy of its contract with a third-party servicer upon request, rather than being required to submit it as part of the certification process.
 - △ The Application is to contain information that allows the Department to evaluate a school's financial responsibility and administrative capability. In addition, the Application must provide, at the option of a school, for participation in one or more of the FFEL and Direct Loan programs.
 - △ The certification period is extended to up to 6 years. In addition, the Department must notify schools six months in advance of the expiration of their certification.
 - △ Site visits as part of the certification and recertification process are now permissive rather than mandatory.
 - △ The Department may grant provisional certification to a school seeking approval of a change in ownership based on the Department's preliminary review of a materially complete application that is received by the Department within 10 business days of the transaction for which approval is sought.
 - △ A school is exempt from submitting a default management plan if (a) neither the subordinate institution nor parent institution has a cohort default rate of 10 percent or less and (b) the new owner does not own, and has not owned, any other school with a cohort default rate in excess of 10 percent.
 - △ The Department must publish special recertification regulations for foreign schools that receive less than \$500,000 in FFEL loan funds.
 - △ The Amendments also made several changes to the Quality Assurance Program and the Experimental Sites Initiative.

- This chapter provides an update on the Single Identifier Initiative.

Chapter 11: Program Reviews and Audits

Program Integrity issues, such as audits and program reviews, responsibilities that a school must fulfill when leaving the SFA Programs, and sanctions and corrective actions taken by the Department are discussed in Chapter 11.

- The Amendments of 1998 made the following changes that effect this chapter:
 - △ Each state (through at least one state agency) must furnish the Department, upon request, with information regarding licensing and other authorization for a school to operate in that state, promptly notify the Department of revocations of licensure or authorization, and promptly notify the Department of credible evidence that a school has committed fraud in the administration of the SFA Programs or has substantially violated a provision of the HEA.
 - △ Changes are made to the requirements for accrediting agencies.
 - △ The Amendments of 1998 created a limited exception to the annual audit requirement.
 - △ Site visits as part of the certification and recertification process are now permissive rather than mandatory.
 - △ The Department is required to give priority in program reviews to schools that meet certain criteria. In addition, the Amendments added special administrative rules for program reviews. The Amendments of 1998 also require civil penalties arising from a program review or audit to be based upon the gravity of the violation.
 - △ The Department is given the authority to issue administrative subpoenas to assist in conducting investigations of possible violations of the provisions of SFA Programs. In addition, the law authorizes the Department to request the Attorney General to invoke the assistance of any court of the United States for purposes of enforcement of a subpoena if necessary.
- A phone number is provided for small businesses to call to comment on the enforcement actions of the Department of Education, call 1-888-REG-Fair (1-888-734-3247).

Chapter 12: Distance Education

Chapter 12 discusses the applicability of the SFA Program requirements to distance education programs.

- The Amendments of 1998, Public Law 105-244 (the Amendments of 1998) created a Distance Education Demonstration Program.
- This chapter also repeats the guidance on the applicability of current SFA Program requirements provided in Dear Colleague letter GEN-98-10.

We are interested in hearing your comments or suggestions on ways to make the SFA Handbook more useful. Please send your comments to:

Development Section
Department of Education
ROB-3, Room 3013
7th and D Streets, SW
Washington, DC 20202

Institutional and Program Eligibility

This chapter discusses the three types of institutions that are eligible to participate in the SFA Programs and the effect of program eligibility requirements on institutional eligibility.

A school that wishes to participate in the SFA Programs must demonstrate that it is eligible to participate before it can be certified for participation. A school must apply to the Department and receive approval from the Department of its eligibility to participate. Note that some schools apply for a designation as an eligible institution only (they do not seek to participate) so that students that attend the school may receive deferments on SFA Program loans, be eligible for the HOPE Scholarship tax credit, or so that the school may apply to participate in federal HEA programs other than the SFA Programs. The same application form is used to apply for both eligibility to participate and certification for participation. For more information on applying to participate, see Chapter 10.

THE THREE DEFINITIONS OF ELIGIBLE INSTITUTIONS

The institutional eligibility laws and regulations define three types of eligible institutions. Under the three definitions, a school is eligible to participate in all the SFA Programs, provided the school offers the appropriate type of eligible program. (Refer to the chart on page 2.) This section covers the key elements of the three definitions, giving special attention to those requirements that affect the definition of an eligible program.

Although the criteria for each of the three types of institutions differ somewhat, these eligible school definitions are not mutually exclusive. That is, a public or private nonprofit school may meet the definition of more than one type of institution.

Note that the Higher Education Amendments of 1998, Public Law 105-244, (the Amendments of 1998), consolidate the definitions of eligible institutions into Title I, part A of the Higher Education Act. Sections 481(a), (b), and (c), and Title XII, the former statutory cites for the definitions of an eligible institution, have been deleted. This change is effective October 1, 1998.

Definitions of Eligible Institutions Cites

Title I; part A, 34 CFR Part 600 Subpart A

Nonprofit Institution:

A school that is

- *owned and operated by one or more nonprofit corporations or associations whose net earnings do not benefit any private shareholder or individual,*
- *legally authorized to operate as a nonprofit organization by each state in which it is physically located, and*
- *determined by the Internal Revenue Service to be eligible for tax-deductible contributions.*

Amendments
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Eligible School Definitions

Institution of Higher Education

Proprietary Institution of Higher Education

Postsecondary Vocational Institution

ELIGIBLE FOR ALL SFA PROGRAMS

Control: A public or private nonprofit educational institution located in a state.*

Control: A private, for-profit educational institution located in a state.*

Control: A public or private nonprofit educational institution located in a state.*

Special Rule: Derives no more than 90% of its revenues from the SFA Programs.

Legal authorization: Is legally authorized by the state where it offers postsecondary education to provide a postsecondary educational program.

Accreditation: Is accredited by a nationally recognized accrediting agency or has met the alternative requirements, if applicable.

Admissions: Admits as regular students only persons with a high school diploma or its recognized equivalent, or persons beyond the age of compulsory attendance in the state where the institution is located.

Program offered:

Provides:

- (1) an associate, bachelor's, graduate, or professional degree, or
- (2) at least a two-year program that is acceptable for full credit toward a bachelor's degree, or
- (3) at least a one-year training program that leads to a degree or certificate (or other recognized educational credential) and prepares students for gainful employment in a recognized occupation.

Program offered: Must provide training for gainful employment in a recognized occupation, and must meet the criteria of at least one category below.

- (1) Provides at least a 15-week (instructional time) undergraduate program of 600 clock hours, 16 semester or trimester hours, or 24 quarter hours. **May** admit students **without** an associate degree or equivalent.
- (2) Provides at least a 10-week (instructional time) program of 300 clock hours, 8 semester or trimester hours, or 12 quarter hours. Must be a graduate/professional program, or **must** admit only students with an associate degree or equivalent.
- (3) **Short-term Program.** Provides at least a 10-week (instructional time) undergraduate program of 300-599 clock hours. **Must** admit at least some students who do **not** have an associate degree or equivalent, and must meet specific qualitative standards (see page 3-12). **Note: These programs are eligible only for FFEL and Direct Loan participation.**

Two-year Rule: Has been legally authorized to give (and has been giving) postsecondary instruction for at least two consecutive years.

* See the definition of "state" on the facing page.

CONTROL AND LEGAL AUTHORIZATION

Control

The “control” of an institution distinguishes whether the school is public or private, nonprofit or for-profit. Under the institutional definitions, an “institution of higher education” or a “postsecondary vocational institution” can be either public or private, but is always nonprofit. A “proprietary institution of higher education” is always a private, for-profit institution.

Legal Authorization by a State

With the exception of foreign schools (see page 18), an eligible institution under any of the three definitions must be located in a state. The definition of a “state” includes not only the 50 States of the Union, but also American Samoa, Puerto Rico, the District of Columbia, Guam, the Virgin Islands, and the Northern Mariana Islands. For the purposes of the Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), and Federal Work-Study (FWS) programs, a “state” also includes the Freely Associated States, which include the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. Generally, the determining factor is the physical location of the main campus or place of instruction. For instance, if a school’s main campus is in a state, as defined above, the school can still have an additional location in a foreign country.

To qualify under any of the three institutional definitions, a school must be legally authorized by the state in which it offers an educational program to provide the program. The state’s legal authorization may be provided by the licensing board or educational agency. In some cases, the school’s charter is its legal authorization. In other cases, a school is considered to be legally authorized if state law does not require it to have a license or other formal approval.

Effective October 1, 1998, the Amendments of 1998 require schools to provide evidence that they have the authority to operate in a state at the time of the school’s certification to participate in the SFA Programs. For more information on applying for participation in the SFA Programs, see Chapter 10.

ACCREDITATION

Generally, an institution must be accredited by a nationally recognized accrediting agency or association (both referred to here as agencies) to be eligible. The Department has published regulations governing the procedures and criteria for recognizing accrediting agencies. For more information, see Chapter 11.

The Department periodically publishes a list of recognized accrediting bodies in the Federal Register, based on criteria given in 34

Evidence of Authority to Operate in a State Cite

Sec. 495(b)

Nationally Recognized Accrediting Agency or Association:

An accrediting agency or association which the Department has recognized to accredit or pre-accredit a particular category of institution, school, or educational program in accordance with the provisions in 34 CFR Parts 602 and 603.

Preaccredited:

A status granted by a nationally recognized accrediting agency or association to a public or private nonprofit institution that is progressing towards accreditation within a reasonable period of time.

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CFR Part 602. Copies of this list are also available from the Department at the following address:

U.S. Department of Education
Accreditation and Eligibility Determination Division
400 Maryland Ave. SW, Room 3012 (ROB-3)
Washington, DC 20202-5244

Alternatives to Accreditation

The law provides two statutory alternatives to accreditation. First, a nonprofit institution may be preaccredited by an agency or association that has been approved by the Department to grant such preaccreditation. Secondly, unaccredited public postsecondary vocational educational institutions may be eligible for SFA Program funds if accredited by a state agency that the Department determines to be a reliable authority.

Changes in Accreditation

If a school loses its accreditation, it is ineligible to participate in the SFA Programs and must notify the Department within 10 days.¹ However, if a school's accrediting agency loses its recognition from the Department, the school has up to 18 months in which to obtain accreditation from another recognized agency. Other changes in accreditation may also jeopardize institutional participation. If a school changes accrediting agencies, it may be subject to termination unless the school submits to the Department all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing accrediting agencies. A school must obtain written approval from the Department for the change of accrediting agency to continue its eligibility status (see Chapter 10).

Dual Accreditation

If a school is accredited by two agencies at the same time, the school must designate which agency's accreditation will be used in determining institutional eligibility for SFA funds and must inform the Department of the designation. Further, the school must provide to the Department (and to both agencies involved) all materials documenting sufficient reason and cause for dual accreditation before the school adds the additional accreditation. See Chapter 11 of this chapter for more on changes in accreditation and loss of eligibility.

ADMISSIONS STANDARDS

An eligible institution may admit as regular students only persons who have a high school diploma or its recognized equivalent, or persons who are beyond the age of compulsory school attendance in the state in which the school is located.

Students who are beyond the age of compulsory attendance but who do not have a high school diploma or its recognized equivalent

1. An accredited or preaccredited school must agree to submit, for any dispute involving the termination of accreditation, to binding arbitration before initiating any other legal action.

must meet ability-to-benefit criteria to be eligible for aid from the SFA Programs. (For more information on this student eligibility requirement, see the *SFA Handbook: Student Eligibility*.)

Home Schooling Cite:
Sec. 484(d)

Amendments
of 1998

The Amendments of 1998 extend student eligibility to home-schooled students who complete a secondary school education in a home school setting that is treated as a home school or private school under state law. This provision is subject to the negotiated rulemaking process and its effect on institutional eligibility has not yet been determined. This provision is effective October 1, 1998.

High School Diploma

For SFA purposes, the school is not required to keep a copy of a student's high school diploma or GED, which is a recognized equivalent of a high school diploma (see below). Rather, the school may rely on the student's certification that he or she has received the credential and a copy of the certification must be kept on file. This certification need not be a separate document. It may be collected on the school's admissions application. The school may also require the student to provide supporting documentation.

Regular Student:

A person who is enrolled (or is accepted for enrollment) in an eligible program for the purpose of obtaining a degree, certificate, or other recognized educational credential.

Recognized Equivalent of a High School Diploma

Generally, a recognized equivalent of a high school diploma is either a GED or a state certificate (received after the student has passed a state authorized test) that the state recognizes as being equivalent to a high school diploma. However, the Department recognizes that there are special cases. If a student has successfully completed at least a two-year program that is acceptable for full credit toward a bachelor's degree, the student's academic transcript is considered equivalent to a high school diploma. A student without a high school diploma who is seeking enrollment in a program of at least the associate-degree level, and who has excelled academically in high school and met formalized written admissions policies of the school, is also considered to have the equivalent of a high school diploma. These students may be eligible to receive SFA Program funds without having to meet the ability-to-benefit requirements, provided the students are no longer enrolled in high school.

A school that admits students who do not have a high school diploma or its recognized equivalent has some additional considerations. A school does not qualify as an eligible institution if, for its latest complete award year, more than 50% of its regular enrolled students had neither a high school diploma or its equivalent, unless the school provides a four-year bachelor's degree program or two-year associate degree program. A waiver of this limitation is possible for some schools. See page 11 for more information.

GED Preparatory Program Required

A school that participates in the SFA Programs and admits students without a high school diploma or its equivalent must make a GED preparatory program available to its students. (For more information see the discussion of the Program Participation Agreement in Chapter 2.)

"TWO-YEAR" RULE

To be eligible as a proprietary institution or a postsecondary vocational institution, a school must have provided continuous postsecondary instruction (and been legally authorized to do so) for at least two consecutive years. The educational program(s) offered must remain substantially the same in length and subject matter, except for changes made because of new technology or other federal agencies' requirements.

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Branch Campus

A branch campus is a location of a school that is geographically apart and independent of the main campus of the school. A location is independent of the main campus if the location:

- *is permanent in nature;*
- *offers courses in educational programs leading to a degree, certificate, or other recognized educational credential;*
- *has its own faculty and administrative or supervisory organization; and*
- *has its own budgetary and hiring authority*

Branch Campus Cite

Sec. 498(j)

A branch campus seeking status as a main campus or free-standing institution is subject to the two-year rule. The Amendments of 1998 clarify that this means that a branch campus must be in existence for two years after certification as a branch campus before the branch can seek certification as a main or freestanding campus. This provision is effective October 1, 1998. A branch campus's time as a branch campus counts toward the two years. An additional location must obtain approval from the Department to become a branch campus. The branch campus then must also satisfy the two-year rule by operating independently for two years before it may be evaluated to be considered a free-standing institution. Time as an additional location of an eligible proprietary institution or postsecondary vocational institution does not count toward the two-year rule, but time as an eligible institution of higher education or its additional location does.

ADDITIONAL INSTITUTIONAL ELIGIBILITY FACTORS

A school is not an eligible institution if the school violates the 90/10 Rule (applicable to proprietary schools only), the Correspondence Course Limitation, the Correspondence Student Limitation, the Incarcerated Student Limitation, or the Ability-To-Benefit Student Limitation. In addition, a school is not eligible if it files for bankruptcy, or if the school, its owner, or its CEO is responsible for a crime involving SFA Program funds. If a school becomes ineligible because of one of these factors, the school must immediately stop awarding SFA Program funds and must comply with the requirements in 34 CFR 668.26 for a school that has lost its SFA participation (for more information on requirements when a school's SFA participation ends, see Chapter 11).

Demonstrations of Compliance

All of the "limitation" requirements and the 90/10 Rule involve certain percentage calculations, which are performed by the school either to demonstrate compliance with a requirement or to demonstrate eligibility for a limitation waiver. In the case of the Correspondence Course Limitation, the Correspondence Student Limitation, the Incarcerated Student Limitation, and the Ability-To-Benefit Student Limitation, a calculation performed by the school must be attested to by the certified public accountant (CPA) who prepares the school's audited financial statement or its SFA compliance audit (for more information on audits, see Chapter 11). The CPA's report must be part of the audit record and must include a recalculation if a school's initial calculation was in error. The CPA's attestation report must indicate whether the school's determinations

(including any relevant waiver or exception) are accurate. Requirements for demonstrating compliance with the 90/10 Rule are discussed below.

90/10 Rule Cite
Sec. 102

For each of the limitation requirements, the school must notify the Department of the school's failure to meet a requirement, its falling within a prohibited limitation, or its ineligibility for a continued waiver, as applicable. The school's notification must occur by July 31 following the end of an award year. If a school fails to meet any of these requirements, the school loses its eligibility to participate in any SFA Program as of the last day of the most recent award year.

To regain institutional eligibility lost due to the limitation requirements, the school must demonstrate its compliance with all eligibility requirements and its ability to stay outside prohibited limits for at least one award year. Further, it must also show how its administrative practices and policies have been changed to ensure that it will not fall within prohibited limits in the future.

Proprietary institutions have 90 days after their most recently completed fiscal year has ended to report to the Secretary if they did not satisfy the 90/10 Rule for that period. Schools that fail to satisfy the 90/10 Rule lose their eligibility as of the last day of that fiscal year.

If a school becomes ineligible because it files for bankruptcy, or if the school, its owner, or its CEO is responsible for a crime involving SFA Program funds, the school must notify the Department within 10 days. The loss of eligibility is effective as of the date of the bankruptcy, or the date the school or individual pleads to or is found responsible for the crime, as applicable. A loss of eligibility for these two reasons is permanent. The institution's eligibility cannot be reinstated.

The 90/10 rule (formerly the 85/15 rule)

To be eligible for SFA participation, a proprietary institution may derive no more than 90% of its revenues from the SFA Programs.

Previously, a proprietary institution was permitted to derive no more than 85% of its revenues from the SFA Programs. However, effective October 1, 1998, the Amendments of 1998 changed this amount to 90%.

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of 1998

As specified in 34 CFR 600.5(d), a school must determine its revenue percentages using the following formula:

SFA Program Funds (except SSIG or FWS) used for tuition, fees, and other institutional charges to students

The sum of revenues generated by the school from: (1) tuition, fees, and other institutional charges for students enrolled in eligible training programs; plus (2) school activities necessary for the education or training of students enrolled in those eligible programs*

*to the extent not included in tuition, fees, and other institutional charges

Exclusions from Fraction

In determining whether a school satisfies the 90/10 Rule, the totals used in the fraction do not include refunds paid to or on behalf of students who have withdrawn, dropped out, been expelled, or otherwise failed to complete the period of enrollment. Charges for books, supplies, and equipment are not included in the fraction unless the amount is part of the tuition, fees, or other institutional charges.

SFA Program Funds for Institutional Charges

In figuring what SFA Program funds were used to pay tuition, fees, and other institutional charges, a school **must** assume that any SFA Program funds disbursed (or delivered) to or on behalf of a student were used for such costs, unless those costs were otherwise paid by

- grant funds provided by non-federal public agencies,
- grant funds provided by independent private sources, or
- funds from qualified government agency job training contracts.

Revenues

In figuring revenues generated by school activities, a school may include only revenue from activities that are conducted on campus or at a facility under the control of the school, that are performed under the supervision of a faculty member, and that are necessary for the training of its students who are enrolled in an eligible program.

Time Period Covered

As mentioned above, a proprietary institution must determine whether it satisfied the 90/10 Rule during its most recently completed fiscal year. For example, for schools using a calendar year as their fiscal year, their most recently completed fiscal year is the one that ended on December 31, 1998. For those schools using the award year as their fiscal year, their most recently completed fiscal year will be the one that ends on June 30, 1999.

Failure to Satisfy the 90/10 Rule

Schools that fail to satisfy the 90/10 Rule lose their eligibility on the last day of that fiscal year. As mentioned earlier, the school must immediately stop awarding SFA Program funds and comply with the provisions of 34 CFR 668.26. Schools have 90 days after their most recently completed fiscal year has ended to report to the Secretary if they did not satisfy the 90/10 Rule for that period.

Notification

A proprietary school is required to disclose the percentage of its revenues derived from the SFA Programs (that the school received during the fiscal year covered by the audit) as a footnote to its audited financial statement (for information on audited financial statements, see Chapter 11).

A school must notify the Department of its failure to satisfy the 90/10 Rule at one of the following addresses:

By U.S. Postal Service

U.S. Department of Education
Institutional Participation and Oversight Service
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026-4805

By commercial overnight mail/courier delivery

U.S. Department of Education
Institutional Participation and Oversight Service
7th and D Streets, SW
GSA Building, Room 3514
Washington, DC 20407

By Internet

IPOS@ed.gov

Correspondence Course Limitation

A school is not eligible for SFA Program participation if, during the school's latest complete award year, more than 50% of its courses are taught through correspondence.²

In calculating the percentage of "correspondence courses," a correspondence course can be either a complete educational program offered by correspondence or a single course offered by correspondence that is part of a larger, on-campus (residential) program. Regardless of how many times a course or program is offered during the award year, it is counted only once. (A course offered both through correspondence and on campus is counted as two courses when determining the total number of courses offered by the school.) The school's Correspondence Course calculation must be attested to by a CPA, as discussed previously.

This requirement does not apply to a school that mainly provides vocational adult education or job training (as defined under the Carl D. Perkins Vocational and Applied Technology Education Act).

For information about a student's eligibility for SFA Program funds while enrolled in a correspondence course and cost of attendance information for correspondence courses, see the *SFA Handbook: Student Eligibility*.

Correspondence Course:

A home study course provided to students who are not physically attending classes at the school; a course that is part residential and part correspondence. (Includes video courses unless students physically in attendance at the school receive the same video instruction in the same award year.)

2. A telecommunications course is considered to be a correspondence course if the sum of telecommunications courses and other correspondence courses provided by the school during its latest complete award year was equal to or more than 50% of the total courses provided that year.

Telecommunications Course:

A course offered principally through television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, satellite, or audio or computer conferences. (Includes video courses if students physically attending the school also receive the video course in the same award year.)

Distance Education

For information on the Distance Education, see Chapter 12.

Incarcerated Student

An "incarcerated student" is a student who is serving a criminal sentence in a federal, state, or local penitentiary, prison, jail, reformatory, work farm or other similar correctional institution. (Does not include detention in a halfway house, home detention, or weekend-only sentences.)

Incarcerated Student Limitation Cite

Sec. 102

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Correspondence Student Limitation

A school is also not eligible for SFA Program participation if, for its latest complete award year, 50% or more of its regular students are enrolled in correspondence courses. "Telecommunications courses" may be considered to be correspondence courses (see the definitions and the footnote on the this page). The rules for calculating this percentage are the same as given previously for the calculation of the correspondence course percentage. The calculation should reflect a straight "head count" of students. That is, each regular student must be counted regardless of full-time or part-time attendance and will be counted only once during an award year, regardless of withdrawal and reenrollment. (Students who enrolled, withdrew, and subsequently received a full refund should not be included in the count.) The school's Correspondence Student calculation must be attested to by a CPA, as discussed previously.

This requirement is waived for a school that offers a two-year associate degree or four-year baccalaureate degree program if the school demonstrates that the students enrolled in its correspondence courses receive no more than 5% of the total SFA Program funds received by all of the school's students. This requirement also does not apply to an institution that mainly provides vocational adult education or job training (as defined under the Carl D. Perkins Vocational and Applied Technology Education Act).

Incarcerated Student Limitation

A school is not eligible for SFA Program participation if, for its latest complete award year, more than 25% of its regular students are incarcerated. If requested by the school, the Department may waive this limitation for a nonprofit school offering a two-year associate degree, or a four-year baccalaureate degree program. In addition, the Amendments of 1998 expand this waiver to include nonprofit institutions providing two-year or four-year programs of instruction that lead to postsecondary diplomas. For the purposes of this waiver, "nonprofit" includes public institutions.

For a school offering only two-year or four-year programs that lead to associate or bachelor's degrees, respectively, the waiver applies to all programs offered at the school. However, if the school offers other types of programs, the waiver would apply to any of the school's two-year bachelor's or four-year associate degree programs, and also to any other programs in which the incarcerated regular students enrolled that have a 50% or greater completion rate. (The calculation of this completion rate is specified in Section 600.7(e)(2) of the Institutional Eligibility regulations and must be attested to by a CPA, as discussed previously.) If granted, the waiver is effective as long as the school continues to meet the waiver requirements each award year. (For information on the eligibility of incarcerated students for SFA assistance, see the *SFA Handbook: Student Eligibility*.)

Ability-to-benefit Limitation

A school does not qualify as an eligible institution if, for its latest complete award year, more than 50% of its regular enrolled students had neither a high school diploma nor its equivalent (referred to here as ability-to-benefit students), unless the school provides a four-year bachelor's degree program or two-year associate degree program.

The Department may waive this limitation for a nonprofit school if the school demonstrates, to the Department's satisfaction, that it exceeds the limitation because it serves significant numbers of ability-to-benefit students through government agency contracts, such as a contract under the Job Training Partnership Act. A school will not be granted this waiver if more than 40% of the school's enrolled regular students do not have a high school diploma or equivalent and are not served through contracts with federal, state, or local government agencies. The purpose of the contracts must be to provide job training to low-income individuals who are in need of the training. If granted, the waiver extends as long as the school continues to meet the waiver requirements each award year. The school's "Ability-To-Benefit" calculation must be attested to by a CPA, as discussed previously.

Bankruptcy

A school is not an eligible institution if the school, or an affiliate of the school that has the power, by contract or ownership interest, to direct or cause the direction of the management of policies of the school, files for relief in bankruptcy, or has entered against it an order for relief in bankruptcy.

The Amendments of 1998 provide that this requirement does not apply to a nonprofit institution (or an affiliate of such a school that has the power, by contract or ownership interest, to direct or cause the direction of the management of policies of the school) that has a primary function of providing health care educational services if the school filed for bankruptcy under chapter 11 of title 11, United States Code, between July 1, 1998, and December 1, 1998.


 A circular stamp with the text "Amendments of 1998" inside.
Crimes involving SFA Program Funds

A school is not an eligible institution if the school, its owner, or its chief executive officer:

- has pled guilty to, has pled nolo contendere to, or is found guilty of, a crime involving the acquisition, use, or expenditure of SFA Program funds; or
- has been judicially determined to have committed fraud involving SFA Program funds.

PROGRAM ELIGIBILITY REQUIREMENTS

To qualify as an eligible institution, a school must offer at least one eligible program. Not all programs at an eligible institution will necessarily be eligible, but at least one of the programs at the school must meet the eligible program requirements.

Determination of Program Eligibility

Generally, a student must be enrolled in an eligible program to receive SFA funds (for more information, see the *SFA Handbook: Student Eligibility*). Because a school's eligibility does not necessarily extend to all its programs, the school must ensure that a program is eligible before awarding SFA Program funds to students in that program. The school is ultimately responsible for determining that a program is eligible. In addition to determining that the program meets the eligible program definition, the school should make certain that the program is included under the notice of accreditation from a nationally recognized accrediting agency (unless the agency does not require that particular programs be accredited). The school should also make certain that it is authorized by the appropriate state agency to offer the program (if the state licenses individual programs at postsecondary institutions).

A school's eligibility extends to all eligible programs and locations that were identified on the school's application for participation, unless the Department determines that certain school programs or locations did not meet the eligibility requirements. In general, the school's eligible non-degree programs and locations are specifically named on the approval notice (Eligibility and Certification Approval Report [ECAR]). Additional locations and programs may be added later (see Chapter 10).

If a program offered through telecommunications or continuing education meets the definition of an eligible program, students enrolled in that program must be considered for SFA Program assistance on the same basis as students enrolled in other eligible programs that are offered through traditional modes.

It is not uncommon for a school to offer programs that meet different eligible program definitions. For example, a school that offers a bachelor's degree program (qualifying the school as an institution of higher education) may also offer a nondegree training program that is eligible under a definition that qualifies the school as a postsecondary vocational institution.

Institution of Higher Education

A school qualifies as an institution of higher education if (in addition to meeting all other eligibility requirements, including being a nonprofit school) it offers a program that leads to an associate, bachelor's, professional, or graduate degree. For such programs, there are no minimum program length requirements.

A school may also qualify as an institution of higher education if it offers a program of at least two academic years in duration that is

acceptable for full credit toward a bachelor's degree, or if it offers a program of at least one academic year in duration that leads to a certificate, degree, or other recognized credential and prepares students for gainful employment in a recognized occupation.

Proprietary or Postsecondary Vocational Institution

There are three types of eligible programs that will qualify an otherwise eligible school as a proprietary institution or a postsecondary vocational institution. All of these programs are required to have a specified number of weeks of instruction, and must provide training that prepares a student for gainful employment in a recognized occupation.

Undergraduate Programs

The first type of eligible program is one that must provide at least 600 clock hours, 16 semester or trimester hours, or 24 quarter hours of undergraduate instruction offered during a minimum of 15 weeks of instruction. The program may admit as regular students persons who have not completed the equivalent of an associate degree.

Shorter Programs

The second type of eligible program is one that must provide at least 300 clock hours, 8 semester hours, or 12 quarter hours of instruction offered during a minimum of 10 weeks of instruction. The program must be a graduate or professional program or must admit as regular students only persons who have completed the equivalent of an associate degree.

"Short-term" Programs

The third type of program is known as the "short-term program." A short-term program qualifies for the FFEL and Direct Loan programs only. A short-term program must provide at least 300 but less than 600 clock hours of instruction offered during a minimum of 10 weeks of instruction. The program must admit as regular students some persons who have not completed the equivalent of an associate degree. These programs must also satisfy the qualitative factors for completion rates, placement rates, program length, and period of existence of the program. Specifically, these programs must:

- have verified completion and placement rates of at least 70%,
- not be more than 50% longer than the minimum training period required by the state (or federal agency), if any, for the occupation for which the program of instruction is intended, and
- have been in existence for at least one year.

For the purpose of demonstrating compliance with these qualitative factors, a school must calculate the completion and placement rates for the award year, as explained later. The CPA who prepares the school's compliance audit report must attest to the

Recognized Occupation

A "recognized occupation" is one that is listed in the "occupational division" of the Dictionary of Occupational Titles (published by the U.S. Department of Labor) or one that is considered by the Department, in consultation with the Department of Labor, to be a recognized occupation.

accuracy of the school's calculation of completion and placement rates.

Completion Rate Calculation

Number of regular students who received credential for successfully completing the program within 150% of the length of the program

Number of regular students enrolled for the year
- number of regular students who withdrew with a 100% refund
- number of regular students enrolled at the end of the year

* less any permitted administrative fee

Placement Rate Calculation

Number of students who obtained employment within 180 days of receiving credential, and who are employed (or have been employed) for at least 13 weeks following receipt of credential*

Number of students who received credential for successfully completing the program

* in the recognized occupation for which they were trained
or in a related comparable occupation

The school must document the employment of any student it includes as "employed" in the placement rate calculation. Examples of such documentation include, but are not limited to, a written statement from the employer, signed copies of state or federal income tax forms, or written evidence of payments of Social Security taxes.

The school must reasonably determine whether a related occupation is comparable. For instance, for a student who was trained as an auto mechanic, it is reasonable to determine that a job as a boat mechanic is comparable. However, for a person trained in retail sales management, a counter-service job at a fast-food restaurant is not comparable.

Exceptions to Eligible Program Definition

Note that there are two cases (certain types of preparatory coursework and teacher-certification programs) where students may receive FFEL or Direct Loan funds for enrollment in a program that does not meet the eligible program definition. (For more information, see the *SFA Handbook: Student Eligibility*)

WEEKS OF INSTRUCTION AND THE 12-HOUR RULE

The three types of eligible programs discussed above, which qualify an otherwise eligible school as a proprietary institution or as a postsecondary vocational institution, are required to have a specified number of weeks of instruction. Definitions for a "week of instruction" and for a "week of instructional time" for the academic year definition are similar. (See the discussion of academic year in Chapter 2.)

Week of Instruction

For all programs except those measured in credit hours without standard terms (semesters, trimesters, or quarters), a “week of instruction” is any seven-day period in which at least one day of regularly scheduled instruction, examination, or preparation for examinations occurs.

Instruction does not include periods of orientation, counseling, vacation, or other activity not related to class preparation or examination.

For educational programs measured in credit hours without standard terms, a week of instruction must include at least 12 hours of instruction, examinations, or preparation for examination within a consecutive seven-day period.

Minimum Weeks and Hours

The 12-hour rule in effect requires a school to demonstrate that certain programs have not only a minimum number of weeks, but also a minimum number of hours. For example, in order for a program to meet the eligible program definition that requires at least 600 clock hours, 16 semester or trimester hours, or 24 quarter hours of instruction, examinations, or preparation for examinations offered during a minimum of 15 weeks of instruction, the program must meet for a minimum of 15 calendar weeks over which a minimum of 180 hours of instruction, examinations, or preparation for examinations occur (12 hours of instruction, examinations, or preparation for examinations for 15 calendar weeks).

A school that wants to set its program to be only 15 calendar weeks long would therefore have to meet an average of 12 hours per week for the 15 calendar week period in order for the program to be eligible. A school with a program that meets less frequently than 12 hours a week would have to meet for enough weeks to provide 180 hours of instruction, examinations, or preparation for examinations. For example, a program meeting 6 hours per week would have to be 30 calendar weeks long in order to be eligible under this provision.

Treatment of Holidays

Because the 12-hour rule does not require a school to offer instruction, examinations, or preparation for examinations on specific days, an institution may not include a holiday for these calculations unless regularly scheduled instruction, examinations, or preparation for examinations occurs on that day.

ADDITIONAL ELIGIBLE PROGRAM REQUIREMENTS

Several SFA Programs have additional requirements that an educational program must meet to be eligible. For example, only undergraduate educational programs are eligible under the Pell Grant and FSEOG programs. Further, correspondence programs are not eligible unless they meet the general requirements for an eligible program and are required for the student’s regular program of study

leading to a degree. As discussed earlier in this Chapter, certain telecommunications courses may be considered correspondence courses and therefore may be subject to the same requirements.

ESL Programs

A program that consists solely of English as a Second Language (ESL) instruction is eligible only for Pell Grant participation. It must meet the general requirements for an eligible program (for example, it must lead to a degree or other credential) and may admit only students who need instruction in English to be able to use the knowledge, training, or skills they already have. The school must document its determination that the ESL instruction is necessary for each student enrolled. A school may request an eligibility determination from the Department for an ESL Program.

A student also may receive SFA Program funds for ESL coursework that is part of a larger eligible program. In this case, the ESL coursework is treated as remedial coursework. For more information, see the *SFA Handbook: Student Eligibility*.

Study Abroad Programs

Study abroad courses are eligible for SFA Program funds, regardless of whether they are required for the student's program of study, as long as they are accepted for credit in the student's program (provided that the requirements meet the consortium and contractual requirements discussed in Chapter 9). The law also requires schools to notify study-abroad students of the availability of such assistance and to certify on the new Program Participation Agreement that they will not deny SFA funds to such students.

Flight Schools

Under the FFEL Programs, a flight school program must maintain current valid certification by the Federal Aviation Administration to be eligible.

CLOCK HOUR/CREDIT HOUR CONVERSIONS

The clock hour/credit hour requirements affect both program eligibility, and the determination of the amount of SFA Program funds a student who is enrolled in the program may receive.

Schools must determine whether an undergraduate program measured in credit hours qualifies as an eligible program in credit hours *for SFA purposes* after using the required conversion formula unless:

- the program is at least two academic years in length and provides an associate, bachelor's, or professional degree (or a degree that the Department has determined to be equivalent to one of these degrees), or

- each course within the program is acceptable for full credit toward one of these degrees at the school, and the degree requires at least two academic years of study.

Note that the exemption for programs that lead to a degree that is equivalent to an associate, bachelor's, or professional degree program of at least two years does not permit a school to ask for a determination that a *nondegree* program is equivalent to a degree program.

Also, public or private nonprofit hospital-based diploma schools of nursing are exempt from using the clock-to-credit hour conversion formula to calculate awards for the SFA Programs.

To determine the number of credit hours in a program for SFA purposes, schools must use the appropriate formula.

For a semester or trimester hour program

$$\frac{\text{Number of clock hours in the credit-hour program}}{30}$$

For a quarter hour program

$$\frac{\text{Number of clock hours in the credit-hour program}}{20}$$

The school must use the resulting number of credit hours to determine if a program is eligible under the eligible program requirements explained on pages 12 to 14. For a program to qualify as eligible by providing at least 16 semester or trimester credit hours or 24 quarter credit hours, the program must include at least 480 clock hours of instruction. For a program to qualify as eligible by providing at least 8 semester or trimester credit hours or 12 quarter credit hours, the program must include at least 240 clock hours of instruction.

Because the results of these formulas determine the eligibility of a program, the resulting number of credit hours may not be rounded upward.

If a school applies the appropriate formula and finds that a program is eligible, the converted credit hours are used to determine the amount of SFA funds that a student who is enrolled in the program is eligible to receive under the Pell Grant, FFEL, and Direct Loan programs. If, after applying the formula, the number of credit hours in the program has decreased, a student's enrollment status could change resulting in a decrease in SFA eligibility under these programs.

A student's period of attendance is measured according to several commonly accepted academic standards. A clock hour is based on an actual hour of attendance, though each hour may include a 10-minute break. Credit hours are typically based on two hours of homework for each hour of class attendance.

Clock Hour/Credit Hour Conversion Example

Sternberg University (SU) states that a two-year nondegree program measured in semester credit hours is 16 credit hours per semester. Courses within the program are not creditable toward a degree at SU. SU determines that there are 330 clock hours in the first and second semesters, and 390 in the third and fourth semesters. By applying the conversion formula, the school determines that the number of credit hours for SFA purposes is 11 for the first two semesters, and 13 for the last two semesters.

$$\frac{330 \text{ clock hours}}{30} = 11 \text{ credit hours}$$

$$\frac{390 \text{ clock hours}}{30} = 13 \text{ credit hours}$$

Total clock hours in the program is 1440. Because the program is longer than 15 weeks and contains more than 480 clock hours of instruction, the program remains an eligible program, provided it is otherwise eligible (see page 3-12). However, for the first two semesters of the program, students are eligible for payment for only 11 credit hours of instruction. Because this is less than the full-time student minimum of 12 credit hours, students who attend the first two semesters are eligible to be paid for only three-quarter time attendance.

Foreign Medical School Cites
Sec 102(a)(2)

Foreign Medical School:

A school that is not located in a state, and is qualified and listed as a medical school in the most current World Directory of Medical Schools, published by the World Health Organization (WHO).

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A school is not permitted to count more than one clock hour per 60-minute period; in other words, a school may not schedule several hours of instruction without breaks, and then count clock hours in 50-minute increments. The result would be that seven hours of consecutive instruction would count as 8.4 clock hours (420 minutes ÷ 50 minutes = 8.4 hours). Seven real-time attendance hours may not count for more than seven clock hours.

FOREIGN SCHOOLS ELIGIBLE FOR FFEL PROGRAMS

In general, by law, a foreign school can participate in the FFEL Programs if the foreign school is comparable to an institution of higher education (as defined earlier in this section) and has been approved by the Department. Additionally, the regulations added specific requirements for foreign medical schools. The Amendments of 1998 modify the foreign medical school provisions to apply the requirements to foreign veterinary schools.

Foreign Medical Schools

To be eligible for FFEL participation, a foreign medical school must meet the same requirements as other foreign schools and must also

- provide, and require its students to complete, a medical program of clinical and classroom instruction not less than 32 months long that is supervised closely by members of the school's faculty and that is provided either
 - Δ Outside the U. S., in facilities adequately equipped and staffed to afford students comprehensive clinical and classroom medical instruction, or
 - Δ In the U. S., through a training program for foreign medical students that has been approved by all medical licensing boards and evaluating bodies whose views are considered relevant by the Department;
- have graduated classes during each of the two years preceding the school's application for eligibility;
- for the above-mentioned medical program, employ only faculty members whose credentials are equivalent to the credentials of faculty teaching similar courses in U.S. medical schools; and
- for a public or private nonprofit school, be accredited by a recognized agency, or for all other schools, by an authorized agency whose standards have been determined by a panel approved by the Department to be comparable to U.S. standards of accreditation for medical schools.

In addition, the law specifies the following requirements for foreign medical schools

- at least 60% of the full-time regular students enrolled in the previous year and 60% of the most recent graduates must be other than U.S. citizens or nationals, permanent residents, or eligible noncitizens of the United States, and
- at least 60% of the students and graduates (for the past three years) who took any step of an exam from the Educational Commission for Foreign Medical Graduates (ECFMG)—including the ECFMG English test—in the previous year must have received a passing score.

A school not meeting all the 60 percent requirements can still be eligible if

- the school’s clinical training program was approved by a state as of January 1, 1992 and is currently approved; or
- the school’s students complete their clinical training at an approved veterinary school located in the United States (this provision was added by the Amendments of 1998).

Continued eligibility is dependent upon annual submission of the data and information that demonstrates compliance with these 60% requirements (or the exception).

Contract:

Any agreement for the acquisition by purchase, lease, or barter of property or services for the direct benefit or use of either of the parties.

Gift:

Any gift of money or property.



REPORTING INFORMATION ON FOREIGN SOURCES

The law requires certain postsecondary schools (whether or not the school is eligible to participate in the SFA Programs) to report ownership or control by foreign sources. The law also requires these postsecondary schools to report contracts with, or gifts from the same foreign source that, alone or combined, have a value of \$250,000 or more for a calendar year. These reports must be filed with the Department by the January 31 or July 31 (whichever is sooner) after the date of receipt of the gifts, date of the contract, or date of ownership or control. The January 31 report should cover the period July 1-December 31 of the previous year, and the July 31 report should cover January 1-June 30 of the same year.

Who Must Report?

A school (and each campus of a multicampus school) must report this information if the school

- is legally authorized to provide a program beyond the secondary level within a state,
- provides a program for which it awards a bachelor’s degree or a more advanced degree, or provides at least a two-year program acceptable for full credit toward a bachelor’s degree,

Restricted or conditional gift or contract:

Any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding

- *the employment, assignment, or termination of faculty;*
- *the establishment of departments, centers, research or lecture programs, or new faculty positions;*
- *the selection or admission of students; or*
- *the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.*

- is accredited by a nationally recognized accrediting agency, and
- is extended any federal financial assistance (directly or indirectly through another entity or person), or receives support from the extension of any federal financial assistance to the school's subunits.

Contents of Disclosure Report

Each disclosure report to the Department must contain

- for gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of the gifts and contracts attributable to a particular country;³
- in the case of a school that is owned or controlled by a foreign source, the identity of the foreign source, the date on which the foreign source assumed ownership or control, and any changes in program or structure resulting from the change in ownership or control;
- for gifts received from or contracts entered into with a foreign government, the aggregate amount of the gifts and contracts received from each foreign government;
- for restricted or conditional gifts received from or restricted or conditional contracts entered into with a foreign source (other than a foreign government), the amount, date of receipt of the gift or date of the contract, and description of the conditions and restrictions;
- for restricted or conditional gifts received from, or restricted or conditional contracts entered into with a foreign government, the amount, the date of receipt of the gift or date of the contract, a description of the conditions or restrictions, and the name of the foreign government.

Alternative Reporting

In lieu of the reporting requirements listed above:

- If a school is in a state that has substantially similar laws for public disclosure of gifts from, or contracts with, a foreign source, a copy of the report to the state may be filed with the Department. The school must provide the Department with a statement from the appropriate state official indicating that the school has met the state requirements.

3. The country to which a gift or a contract is attributable is the country of citizenship; or, if unknown, the principal residence for a foreign source who is a "natural person" and the country of incorporation, or, if unknown, the principal place of business for a foreign source which is a legal entity.

- If another department, agency, or bureau of the Executive Branch of the federal government has substantially similar requirements for public disclosure of gifts from, or contracts with, a foreign source, the school may submit a copy of this report to the Department.

Where to Send Reports

Reports should be sent to the Department's Institutional Participation and Oversight Service at one of the addresses on page 9. Submissions should be marked "Foreign Gift Report."

If a school fails to comply with the requirements of this law in a timely manner, the Department is authorized to undertake a civil action in federal district court to ensure compliance. Following a knowing or willful failure to comply, a school must reimburse the Treasury of the United States for the full costs of obtaining compliance with the law.

All information provided by schools under this law is open to inspection and duplication by members of the public.

SOLOMON-POMBO AMENDMENT

"Dear Colleague" Letter GEN-98-3, published in January 1998 informed schools of the effect of the Solomon-Pombo Amendment on the SFA Programs.



The "Solomon-Pombo Amendment" was enacted on September 30, 1996, as part of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208). This amendment provides that federal funds cannot be provided by contract or by grant to schools that have been found to have denied or restricted access to military recruiters, or have denied or restricted the establishment, maintenance or efficient operation of a Senior Reserve Officer Training Corps (ROTC) unit. The Amendment is effective as of federal fiscal year 1997.

Currently, of the SFA Programs, only the campus-based programs are affected by the Solomon-Pombo Amendment. The other SFA Programs are not considered grants or contracts to a school and, therefore, are not affected.

The Solomon-Pombo Amendment applies to any domestic college, university, or other school, providing postsecondary courses of study, including foreign campuses of such school.

The Department of Defense (DoD), not the Department of Education, determines whether a school has denied access. DoD published an interim rule in the Federal Register on April 8, 1997 (62 Fed. Reg. 16691) to implement the Solomon-Pombo Amendment.

A more complete discussion of the Solomon-Pombo Amendment is included in the *SFA Handbook: Campus-Based Programs Reference*.

General Participation Requirements

A school that participates in the SFA Programs must meet certain requirements for participation. Participation standards are important because all SFA funds received by a participating school are held in trust by that school for the intended student beneficiaries (except for allowed administrative expense reimbursement). This chapter explains many of the institutional participation requirements. Additional specific participation standards are discussed in the following chapters.

If the Department determines that a school has met the eligibility requirements (discussed in Chapter 1), it then evaluates the school's financial responsibility and whether the school is administratively capable of providing the education it promises and of properly managing the SFA Programs. These evaluations are used to determine whether the school may be certified for participation in the SFA Programs. For more information on administrative capability and financial responsibility, see Chapters 3 and 4, respectively.

Program Participation Agreement Cites

Sec. 487, 34 CFR 668.14

Once a school is certified by the Department to participate in the SFA Programs, it is bound by the requirements of those programs. To begin its participation, a school must enter into a program participation agreement.

THE PROGRAM PARTICIPATION AGREEMENT

An eligible school must enter into a Program Participation Agreement (PPA) with the Department to participate in the following programs: Pell Grant, Federal Supplemental Educational Opportunity Grant (FSEOG), Federal Work-Study (FWS), Federal Perkins Loan (Perkins), and Federal Family Education Loan (FFEL). Currently, a school that participates in the Direct Loan Program does so through an addendum to the PPA.

Purpose and Scope of the PPA

Under the PPA, the school agrees to comply with the laws, regulations, and policies governing the SFA Programs. After being certified for SFA Program participation, the school must administer SFA Program funds in a prudent and responsible manner. Under certain circumstances, for example, when a school stops providing education, a school's PPA automatically terminates (for more information, see Chapter 11.)

PPA Requirements

The PPA lists some of the basic administrative requirements of SFA participation. Some of these are discussed in more detail in this or other areas of this Handbook, as noted below:



Amendments
of 1998

1. The school will provide timely information on its administrative capability and financial responsibility to the Department, and to the appropriate state, guaranty, and accrediting agencies. (Chapters 3 and 4)
2. If the school advertises job placement rates to attract students, it must provide a prospective student with any relevant information on state licensing requirements for the jobs for which the offered training will prepare the student.
3. The school cannot deny SFA funds on the grounds that a student is studying abroad in an approved-for-credit program. (Chapter 9)
4. To begin participation in the FFEL Programs (or if a school changes ownership or changes its status as a parent or subordinate institution), the school must develop a default management plan for approval by the Department and must implement the plan for at least two years. (Chapter 3 and *SFA Handbook: Direct Loan and FFEL Programs Reference*)

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) provide that a school is exempt from submitting a default management plan if (a) the parent institution and the subordinate institution both have a cohort default rate of 10 percent or less and (b) the new owner of the parent or subordinate institution does not own, and has not owned, any other school with a cohort default rate over 10 percent.

5. The school must acknowledge the authority of the Department and other entities to share information regarding fraud, abuse, or the school's approval to participate in the SFA Programs. (Chapter 11)
6. The school may not knowingly employ or contract with (in the administration of or receipt of SFA funds) any individual, agency, or organization that has been convicted of or pled guilty or nolo contendere to a crime or was judicially determined to have committed fraud involving the misuse of SFA funds.
7. The school must, in a timely manner, complete surveys under the Integrated Postsecondary Education Data System (IPEDS) or any other data collection effort of the Department.

8. The school cannot penalize in any way a student who is unable to pay institutional costs due to compliance with the SFA Program requirements, or due to a delay in federal aid disbursement caused by the school.
9. The school cannot pay, nor contract with any entity that pays, commissions or other incentives based directly or indirectly on securing enrollment or financial aid (except when recruiting foreign students ineligible for SFA Program funds) to persons engaged in recruiting, admission, or financial aid administration.
10. The school must comply with the requirements of the Department, as well as those of accrediting agencies. (Chapter 1)
11. The school must comply with the requirements for the return of funds when a student withdraws. (Chapter 6)
12. Schools cannot charge for processing or handling any application or data used to determine a student's SFA eligibility. For instance, the school may not charge (or include in the student's cost of attendance) a fee to certify a loan application, complete a deferment form, process a Pell Grant payment, verify an application, or send or request a financial aid transcript.
13. A student may always use the Free Application for Federal Student Aid (FAFSA) to apply for SFA Program funds. However, a school may require additional data that are not provided on the federal form to award institutional or state aid. Institutional charges for collecting such data must be reasonable and within marginal costs.

The Amendments of 1998 moved and slightly modified the specific requirements for reporting data concerning athletically related student aid that were found in the Program Participation Agreement section of the law to the Equity in Athletics Disclosure Act (EADA) section of the law (see Chapter 7 for more information). The PPA requirements now state that a school must comply with the EADA reporting requirements.

Amendments
of 1998

The Amendments of 1998 added a new PPA requirement. The new provision requires a school to make a good faith effort to distribute voter registration forms unless the school is located in a state that has in effect the motor vehicle-voter registration provision of the National Voter Registration Act. Schools are to request the forms from the state. A school must make an effort to distribute the forms to each student attending the school, and must make the forms widely available to students. Members of the Executive Branch (e.g., the Department) are prohibited from instructing schools concerning the implementation of these provisions.

Amendments
of 1998

The above list is not exhaustive; schools must carefully review all of the requirements listed on their PPA and those specified in 34 CFR 668.14. In addition, a school must meet any requirements for participation specific to an individual SFA Program.

GED Preparatory Program Required

Another participation requirement found in the PPA requires a school that admits students without a high school diploma or its recognized equivalent (based on their ability to benefit) to make a GED preparatory program available to its students. The course does not have to be provided by the school itself, and the school is not required to pay the costs of the program. The GED program must be offered at a place that is convenient for the students and the school must take reasonable steps to ensure that its students have access to the program, such as coordinating the timing of its program offerings with that of the GED program. The school must provide information about the availability of the GED program to affected students. The GED program must be proven successful in preparing its students to obtain a GED—such programs include GED programs that are conducted by state and local secondary school authorities, as well as programs for which the school has documentation that statistically demonstrates the success.

The law does not require a school to verify that a student is enrolled in a GED program or to monitor the student's progress in the program. A student admitted based on his or her ability to benefit who does not have a high school diploma or its recognized equivalent is not required by law to enroll in a GED program, but the school may choose to make this an admissions requirement. A student may not receive SFA Program funds for the GED program although he or she may be paid for postsecondary courses taken at the same time as the GED coursework, including remedial coursework¹ at the secondary level or higher.

Civil Rights and Privacy Requirements

When a school signs the PPA, it also agrees to comply with the civil rights and privacy requirements contained in the Code of Federal Regulations (CFR), which apply to all students in the educational program, not just to SFA recipients.

PROJECT EASI

Project EASI (Easy Access for Students and Institutions) is an initiative of the Department to pursue a collaborative effort among a diverse group of government, business, and educational leaders to reengineer the postsecondary student aid delivery system to meet the needs of its primary customers, the students and their families. Many of the initiatives of Project EASI, such as a definition of a common payment period for all SFA Programs and the required use of the Department's electronic services by schools, will affect the participation of schools.

1. It is the school's responsibility to determine whether a remedial program is at the secondary level. However, if the state, the school's accrediting agency, or the state agency recognized for the approval of public postsecondary vocational education determines that a remedial program is at the elementary level, the school must abide by that determination. For more on remedial coursework, including the admission of ability-to-benefit students, see the *SFA Handbook: Student Eligibility*.

The reengineered delivery system will meet the needs of students and their families by providing an integrated system to facilitate the ability of students and their families to plan for postsecondary education, choose among postsecondary educational programs and schools, and finance their choices. This integrated system will be available for all users of the delivery system including students and their families, state agencies, and others. Project EASI will reduce delivery system costs to all participants, reduce burden (including regulatory burden), reduce fraud and system vulnerability, and enhance management capabilities of the Department and other users of the system, including schools and states.

The following key elements will be part of a reengineered student aid delivery system:

- Every student will have his or her individual student account. The individual student account will contain all the student's data in the system, and all activity in the system concerning the student will be processed through his or her individual student account. Individual student accounts will be the basis for integrating the delivery system.
- A student will be able to provide current information to, and receive current information from, all system users (for example, his or her school) through his or her individual account.
- The data in the individual student accounts will reflect standardized data definitions for all system users, and data reported using common reporting records.
- The delivery system will not be program specific; it could be used to deliver funding under any student assistance program.
- To the extent practicable, the delivery system will use advanced technology to automate data processing and will be a paperless system.
- Strict security, such as encryption and controlled access to the data, will be designed as part of the system.

Additional information, including a more detailed description of Project EASI, can be found at <http://easi.ed.gov> on the Project EASI World Wide Web home page.

DEFINITION OF A PAYMENT PERIOD

There is one definition of a payment period that is applicable to all SFA Programs, except FWS. The common definition is integral to requirements for the administration of SFA Program funds. For example, all SFA Program disbursements must be made on a payment period basis (for more information, see Chapter 5). Note that FFEL and Direct Loan disbursements must still be made in accordance with the specific disbursement rules for those programs (see the *SFA*

Handbook: Direct Loan and FFEL Programs Reference for specific information on FFEL and Direct Loan disbursements).

This definition of a payment period was included in final regulations published November 29, 1996. Under the payment period definition, there are two sets of requirements: one for term-based credit hour programs, and one for nonterm credit hour programs and all clock hour programs. There is no separate definition for clock hour programs that are offered in terms.

Term-based Credit Hour Programs

For a program offered in semester, trimester, quarter, or other academic terms and measured in credit hours, the payment period is the term. For example, if a loan period includes all three quarters of an academic year, the loan must be disbursed in three substantially equal payments. This was a change for any quarter-based school that had been disbursing the loan funds for all three quarters in two disbursements.

Term-Based Credit Hour Programs

<i>Program offered in...</i>	<i>Payment Period is...</i>
● semester	● semester
● trimester	● trimester
● quarter	● quarter
● other academic term	● other academic term

Programs that are offered in modules are not counted as programs measured in terms. The phrase “other academic terms” (also known as nonstandard terms) refers to those structured educational intervals at a school that do not fit into a normally defined semester, trimester, or quarter term. For example, other academic terms could include six five-week terms.

Nonterm Credit Hour Programs and Clock Hour Programs

Payment periods for programs measured in credit hours without terms and all clock hour programs vary depending on whether the length of the program is

- one academic year or less,
- a multiple of a full academic year,
- longer than an academic year with a remainder shorter than or equal to one half of an academic year, or
- longer than an academic year with a remainder shorter than an academic year, but longer than one half of an academic year.

Programs of an Academic Year or Less

If the program is an academic year or less in length, the first payment period is the period of time in which the student completes the first half of the program, as measured in credit or clock hours. The second payment period is the period of time in which the student completes the second half of the program as measured in credit or clock hours.

Nonterm Credit Hour Programs and All Clock Hour Programs of One Academic Year or Less

First payment period

- period of time in which student completes first half of the program

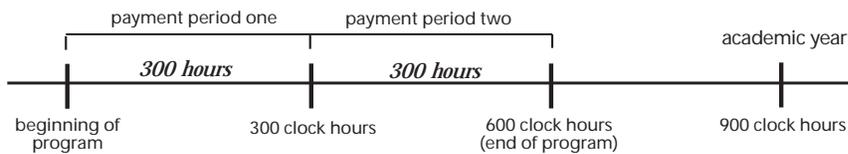
Second payment period

- period of time in which student completes remainder of the program

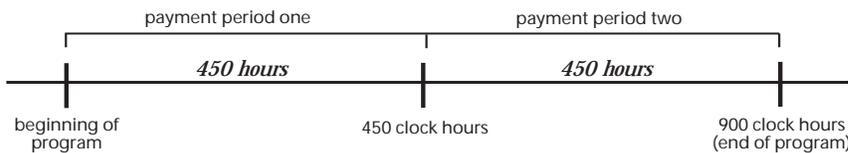
For example, if a program is 600 clock hours and the academic year is defined as 900 clock hours, the first payment period is the period of time needed for the student to complete the first 300 clock hours. The second payment period would be the period of time needed for the student to complete the last 300 clock hours (see example one below). If the program was equal to the academic year (900 clock hours), the first payment period would be the period of time needed for the student to complete the first 450 clock hours. The second payment period would be the period of time needed for the student to complete the second 450 clock hours (see example two below).

One Academic Year or Less Example

1



2



Programs of Multiples of an Academic Year

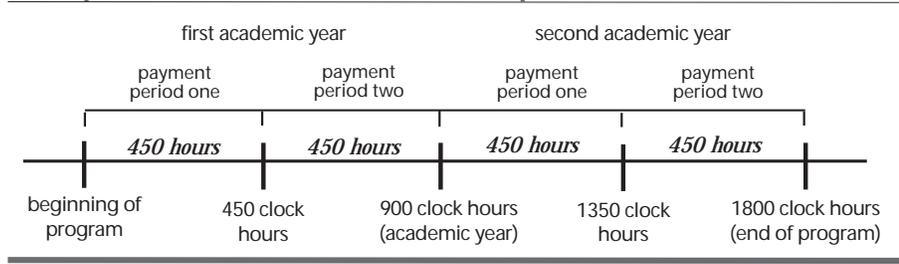
If the program is equal to two or more complete academic years, for the first academic year and any subsequent academic year, the first payment period is the period of time in which the student completes the first half of the academic year, as measured in credit or clock hours. The second payment period is the period of time in which the student completes the second half of the academic year as measured in credit or clock hours.

Payment Periods for Nonterm Credit Hour Programs and All Clock Hour Programs Longer Than One Academic Year

<i>Program length</i>	<i>First and subsequent full academic years</i>		<i>Remainder of program</i>	
	<i>First payment period</i>	<i>Second payment period</i>	<i>First payment period</i>	<i>Second payment period</i>
multiples of a full academic year	period of time in which student completes first half of academic year	period of time in which student completes second half of academic year	N/A	N/A
longer than academic year, remainder shorter than or equal to one half an academic year	period of time in which student completes first half of academic year	period of time in which student completes second half of academic year	period of time in which student completes remainder of program	N/A
longer than academic year, remainder shorter than academic year, but longer than half an academic year	period of time in which student completes first half of academic year	period of time in which student completes second half of academic year	period of time in which student completes first half of remainder of the program	period of time in which student completes second half of remainder of the program

For example, if a program is 1800 clock hours and the academic year is defined as 900 clock hours, the first payment period for both the first and subsequent academic year is the period of time needed for the student to complete the first 450 clock hours. The second payment period would be the period of time needed for the student to complete the next 450 clock hours (see example below).

Multiples of an Academic Year Example

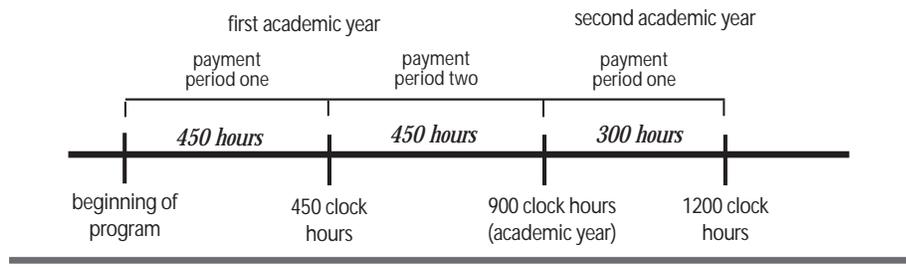


Programs Longer than an Academic Year with a Remainder

If the program is longer than an academic year, but has a remaining portion of the program that is not equal to an academic year, for the first academic year and any subsequent full academic year, the first payment period is the period of time in which the student completes the first half of the academic year, as measured in credit or clock hours. The second payment period is the period of time in which the student completes the second half of the academic year as measured in credit or clock hours. For the remaining portion of the program, if the remainder is equal to or shorter than one half of an academic year, the payment period is the remaining portion of the program.

For example, if a program is 1200 clock hours and the academic year is defined as 900 clock hours, the first payment period for the first academic year is the period of time needed for the student to complete the first 450 clock hours. The second payment period would be the period of time needed for the student to complete the next 450 clock hours. The first, and only, payment period for the second academic year is equal to the remaining portion of the program (see example below).

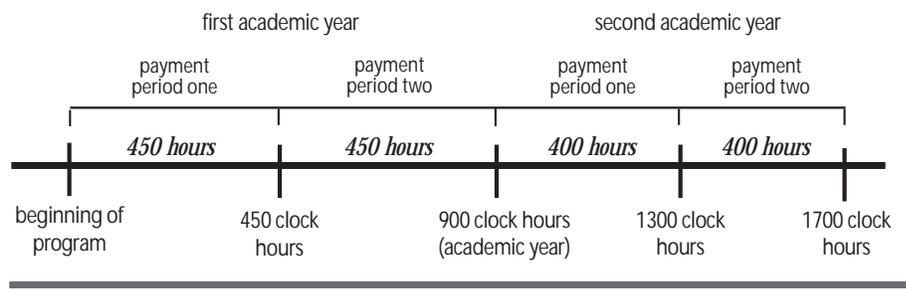
Remainder Equal To or Shorter Than Half an Academic Year Example



If the remaining portion of the program is more than one half of an academic year, but less than a full academic year, for the remaining portion of the program the first payment period is the period of time in which the student completes the first half of the remaining portion of the program, as measured in credit or clock hours. The second payment period is the period of time in which the student completes the second half of the remaining portion of the program as measured in credit or clock hours.

For example, if a program is 1700 clock hours and the academic year is defined as 900 clock hours, the first payment period for the first academic year is the period of time needed for the student to complete the first 450 clock hours. The second payment period would be the period of time needed for the student to complete the next 450 clock hours. The first payment period for the second academic year would be the period of time needed for the student to complete the next 400 clock hours. The second payment period for the second academic year would be the period of time needed for the student to complete the final 400 clock hours (see example below).

Remainder Greater Than Half an Academic Year Example



If a student is enrolled in a program measured in credit hours without terms and the school does not award credits until the entire program is complete, the second payment period begins on the later of

- the calendar midpoint between the first and last scheduled days of class of the program or academic year, or
- the date, as determined by the school, that the student has completed half of the academic coursework.

Definition of Coursework

The term academic coursework does not necessarily refer to credits. It may refer to the lessons or other measures of learning within a course. For instance, for a course made up of 40 equal lessons, the student reaches the halfway point in the coursework after completing 20 lessons.

- If the student completes the first 20 lessons before the calendar midpoint of the academic year, the second payment period does not begin until the calendar midpoint.
- If the student completes the first 20 lessons after the calendar midpoint of the academic year, the second payment period does not begin until the student completes the first 20 lessons.

More than Two Payment Periods Per Academic Year

For a program measured in credit hours without terms and any clock hour program, a school may choose to have more than two payment periods per academic year. If so, the length of the payment periods must be substantially equal throughout the academic year. For example, if a school chooses to have three payment periods in an academic year, each payment period must correspond to one-third of the academic year. Each subsequent payment period cannot begin until the student completes the clock or credit hours in the previous payment period. If a school chooses to have more than two payment periods per academic year, the school must have a written policy and apply the policy to all students who are enrolled in the programs effected.

CLARIFICATION

ACADEMIC YEAR REQUIREMENTS

Thirty-week Minimum of Instructional Time

Every eligible program, including graduate programs, must have a defined academic year that contains a minimum of 30 weeks of instructional time. In addition, for undergraduate programs, over the minimum of 30 weeks of instructional time, a full-time student must be expected to complete at least 24 semester or trimester hours, 36 quarter hours, or 900 clock hours as appropriate. A school may determine the amount of work a full-time graduate or professional student is expected to complete over an academic year.

Determining Academic Year Length

A school may have different academic years for different programs, but must use the same academic year definition for

- calculating all SFA awards for students enrolled in a particular program, and
- all other SFA Program purposes, such as the certification of loan deferments.

To determine the number of weeks of instructional time, a school must count the period that begins on the first day of classes and ends on the last day of classes or examinations.

Definition of a Week of Instructional Time

For all programs except those measured in credit hours without standard terms, a “week of instructional time” is any seven day period in which at least one day of regularly scheduled instruction, examination, or preparation for examinations occurs. (Instructional time does not include periods of orientation, counseling, vacation, or other activity not related to class preparation or examination.) The requirements for a “week of instructional time” are similar to those for a “week of instruction” for the eligible program definitions (see the discussion of “Weeks of Instruction and the 12-Hour Rule” in Chapter 1).

The 12-hour Rule

For educational programs measured in credit hours without standard terms (semesters, trimesters, or quarters), a week of instruction must include at least 12 hours of instruction, examinations, or preparation for examinations within a consecutive seven-day period.

A school wishing to set its academic year to be only 30 calendar weeks long (a calendar week being seven consecutive days) would have to meet an average of 12 hours per week for the 30 calendar-week period. A school with a program that meets less frequently than 12 hours a week would have to meet enough calendar weeks to provide 360 hours of instruction, examinations, or preparation for examinations (30 calendar weeks x 12 hours per week) in order to have a program offered over a full academic year (equivalent to 30 weeks of instructional time).

For example, if a school wants to establish an academic year of 30 weeks of instructional time for a credit-hour, nonterm program that meets 10 hours a week, the school would need to have approximately 36 calendar weeks (36 calendar weeks x 10 hours per week = 360 hours of instruction, examinations, or preparation for examinations) in order to have the equivalent of 30 weeks of instructional time for a full academic year. Therefore, in this example, a student enrolled in this program would not be eligible to take out another Stafford Loan until he or she had completed the required amount of work and 36 calendar weeks had elapsed. A school must also use this calculation to

determine when one-third and two-thirds of an academic year have occurred.

When calculating awards under the Pell Grant Program, a school must always use weeks of instructional time. However, the length of the academic year in calendar weeks will probably exceed the number of weeks of instructional time.

Because the 12-hour rule does not require a school to offer instruction, examinations, or preparation for examinations on specific days, a school may not include a holiday as a day of instruction unless regularly scheduled instruction, examinations, or preparation for examinations occurs on that day.

Reductions in Academic Year Length

The law permits schools that provide two-year or four-year associate or baccalaureate degree programs to apply to the Department if they want to establish a full academic year of less than 30 weeks of instructional time. The Department is permitted to grant a reduction in the length of an academic year to no less than 26 weeks of instructional time. If a reduction is approved, a school is permitted to have an academic year of less than 30 weeks of instructional time (but no less than 26 weeks of instructional time) without any reduction in the amount of SFA funds that a student enrolled in an eligible program is eligible to receive for an entire academic year.

A reduction is available to schools that want to begin or continue to operate with a reduced academic year on a long-term basis. This reduction must be renewed each time a school is required to apply for recertification.

When evaluating a school's application for a reduction, the Department will consider factors such as

- the school's compliance with awarding and disbursement procedures based on the academic year requirements of the Higher Education Amendments of 1992,
- the approval of the academic year by the school's accrediting agency or state agency,
- the hours of attendance and other coursework that a full-time student is required to complete in the academic year, and
- any unique circumstances that justify granting the request.

For further details on the information required for submission of a request for a reduction, see 34 CFR 668.3.

If a school is ineligible for a reduction in the length of an academic year because of noncompliance with awarding and disbursement procedures, that school may be eligible if the school

makes arrangements with the Department to recalculate awards as necessary and repay any resulting liabilities.

CONTRACTS WITH THIRD-PARTY SERVICERS

Schools are permitted to contract with consultants for assistance in administering the SFA Programs. However, the school ultimately is responsible for the use of SFA funds and will be held accountable if the consultant mismanages the programs.

Section 668.25 of the General Provisions regulations contains requirements for all participating institutions that contract with third-party servicers. As defined by regulation, a third-party servicer is an individual or organization that enters into a contract (written or otherwise) with a school to administer any aspect of the institution's SFA participation.

Examples of functions that are covered by this definition include

- processing student financial aid applications, performing need analysis, and determining student eligibility or related activities;
- certifying loan applications, servicing loans, or collecting loans;
- processing output documents for payment to students, and receiving, disbursing, or delivering SFA funds;
- conducting required student consumer information services;
- preparing and certifying requests for advance or reimbursement funding, preparing and submitting notices and applications required of eligible and participating schools, or preparing the Fiscal Operations Report and Application to Participate (FISAP); and
- processing enrollment verification for deferment forms or Student Status Confirmation Reports.

Excluded Activities

Examples of functions that are not covered by this definition include

- performing lock-box processing of loan payments,
- performing normal electronic fund transfers (EFTs),
- publishing ability-to-benefit tests,
- performing functions as a Multiple Data Entry Processor (MDE),
- financial and compliance auditing,

- mailing documents prepared by the institution, or warehousing institutional records, and
- providing computer services or software.

Employees of a School

An employee of a school is not a third-party servicer. For this purpose, an employee is one who

- works on a full-time, part-time, or temporary basis,
- performs all duties on site at the school under the supervision of the school,
- is paid directly by the school,
- is not employed by or associated with a third-party servicer, and
- is not a third-party servicer for any other school.

Requirements for Contracting with a Third-party Servicer

A school may only contract with an eligible third-party servicer, as defined by specific regulatory criteria. Under such a contract, the servicer agrees to comply with all applicable requirements, to refer any suspicion of fraudulent or criminal conduct in relation to SFA Program administration to the Department's Inspector General, and, if the servicer disburses funds, to confirm student eligibility and make required refunds.

If the contract is terminated, or the servicer ceases to perform any functions prescribed under the contract, the servicer must return all applicable SFA funds and related records to the school.

Institutional Liability

Although an eligible servicer must meet all these and other requirements, the school remains liable for any and all SFA-related actions taken by the servicer on its behalf, under the terms of the contract.

Notification of Contracts to the Department

Schools should already have notified the Department of all existing third-party servicer contracts. If a school has not notified the Department, the school must do so by providing the Department with the following information for each third-party servicer with which the school contracts: name, address, employer identification number, telephone number, fax number, and Internet address.

If a school has submitted information regarding its third-party servicers as part of an application for certification or recertification, no additional submission is required. A school is not required to notify the Department if it does not contract with any third-party servicers.

Schools are also required to notify the Department if the school enters into a new contract with a third-party servicer; the school significantly modifies a contract with an existing third-party servicer; the school or one of its third-party servicers terminates a contract, or a third-party servicer ceases to provide contracted services, goes out of business, or files for bankruptcy. Notification to the Department (which must include the name and address of the servicer and the nature of the change or action) must be made within ten days of the date of the change or action.

Copy of Third-party Servicer
Contract Upon Request Cite
Sec. 498(b)

The Amendments of 1998 make it clear that a school must provide a copy of its contract with a third-party servicer only upon request. A school is not required to submit the contract as part of the recertification process.

Amendments
of 1998

Additions or changes to a school's third-party servicers must be reported to the Department on Section J of the Application for Approval to Participate in Federal Student Financial Aid Programs (see Chapter 10).

ANTI-DRUG ABUSE REQUIREMENTS

The HEA requires a school to certify to the Department that it operates a drug abuse prevention program that is accessible to its students, employees, and officers. Two other laws added related requirements for postsecondary schools that receive SFA funds.

The Drug-Free Workplace Act of 1988 (Public Law 101-690) requires a federal grant recipient to certify that it provides a drug-free workplace. Because a school applies for and receives its campus-based allocation directly from the Department, the school is considered to be a grantee for purposes of the Act. Therefore, to receive campus-based funds, a school must complete the certification on ED Form 80-0013, which is part of the FISAP package (the application for campus-based funds). This certification must be signed by the school's CEO or other official with authority to sign the certification on behalf of the entire institution.

Requirements for a Drug-free Workplace

The certification lists a number of steps that the school must take to provide a drug-free workplace, including

- establishing a drug-free awareness program to provide information to employees,
- distributing a notice to its employees of prohibited unlawful activities and the school's planned actions against an employee who violates these prohibitions, and
- notifying the Department and taking appropriate action when it learns of an employee's conviction under any criminal drug statute.

A school's Administrative Cost Allowance (ACA) may be used to help defray related expenses, such as the cost of printing informational materials given to employees. For more information on ACAs, see Chapter 5.

Scope of the Act

The drug-free workplace requirements apply to all offices and departments of a school that receives campus-based funds. Organizations that contract with the school are considered subgrantees; however, only grantees are subject to the requirements of the Drug-Free Workplace Act.

Submission of Certification to the Department

The Drug-Free Schools and Communities Act (P.L. 101-226) requires a school to certify that it has adopted and implemented a program to prevent drug and alcohol abuse by its students. Unlike the annual drug-free workplace certification, a school usually will only submit this new certification to the Department once. (An exception would be a school that changes ownership.)

Distribution to Students and Staff

The drug prevention program adopted by the school must include annual distribution to all students and employees of information concerning drug and alcohol abuse as described above, except that these steps must be taken by schools that receive any federal funding and must include the school's students as well as its employees. The information that must be distributed is more specifically described in Section 8.

Development and Review of a Drug Prevention Program

A school must review its drug prevention program once every two years to determine its effectiveness and to ensure that its sanctions are being enforced. The development of a drug prevention program, although it is a condition for SFA funds, is usually an enterprise that is undertaken by the school administration at large, not by the financial aid office. The regulations originally published on this topic (August 16, 1990) were mailed to participating schools at the time; they offer a number of suggestions for developing a drug prevention program. Also, several organizations that can serve as resources are listed on the next page.

The effectiveness of a school's drug prevention program may be measured by tracking

- The number of drug- and alcohol-related disciplinary actions,
- The number of drug- and alcohol-related treatment referrals,
- The number of drug- and alcohol-related incidents recorded by campus police or other law enforcement officials,
- The number of drug- and alcohol-related incidents of vandalism,

- The number of students or employees attending self-help or other counseling groups related to alcohol or drug abuse, and
- Student, faculty, and employee attitudes and perceptions about the drug and alcohol problem on campus.

Consequences of Noncompliance

A school that does not certify that it has a drug prevention program, or that fails to carry out a drug prevention program, may lose its approval to participate in the SFA Programs. (See the regulations for details on Department sanctions and appeals procedures available to the school.)

Additional Sources of Information

The following resources are available for schools that are developing drug prevention programs.

- ***The Center for Substance Abuse Treatment and Referral Hotline.***
Information and referral line that directs callers to treatment centers in the local community. (1-800-662-HELP)
 - ***The Center for Substance Abuse Prevention Helpline.***
A line that provides information only to private entities about workplace programs and drug testing. Proprietary and private nonprofit but not public postsecondary schools may use this line. (1-800-967-5752)
 - ***The National Clearinghouse for Alcohol and Drug Information.***
Information and referral line that distributes U.S. Department of Education publications about drug and alcohol prevention programs as well as material from other federal agencies. (1-301-468-2600)
-

ANTI-LOBBYING CERTIFICATION AND DISCLOSURE

In accordance with P.L. 101-121 (and regulations published December 20, 1989), any school receiving more than \$100,000 for campus-based Programs must provide the following to the Department for each award year:

- **Certification Form (Combined with Debarment and Drug-Free Workplace certifications, ED-80-0013)** The school will not use federal funds to pay a person for lobbying activities in connection with federal grants or cooperative agreements. This certification must be renewed each year for your school to be able to draw down campus-based funds.
- **Disclosure Form (Standard Form LLL)** If the school has used nonfederal funds to pay a noninstitutional employee for lobbying activities, the school must disclose these lobbying activities to the Department. The school must update this disclosure at least quarterly, when changes occur.

Both of these forms are sent to schools with the campus-based fiscal report/application (FISAP) each summer. The certification form and the disclosure form must be signed by the CEO or other individual who has the authority to sign on behalf of the entire institution. A school is advised to retain a copy in its files.

This certification primarily covers the use of the campus-based Administrative Cost Allowance (ACA). Schools may not use the ACA to pay for their membership in professional associations (such as NASFAA, NATTS, AICS, or NACUBO), regardless of whether the association engages in lobbying activities. Association membership is not a legitimate administrative cost of the SFA Programs.

The school is also responsible for payments made on its behalf, and must include the certification in award documents for any subgrantees or contractors (such as need analysis servicers, financial aid consultants, or other third parties paid from the ACA). See Section 3 for more information on the ACA.

Administrative Capability

To be certified to participate in the SFA Programs, a school must demonstrate that it is administratively capable of providing the education it promises and of properly managing the SFA Programs. This chapter discusses the requirements a school must meet to demonstrate its administrative capability.

REQUIRED ELECTRONIC PROCESSES

Final regulations published November 29, 1996 added a new standard of administrative capability. To be considered administratively capable to participate in an SFA Program, a school must participate in all electronic processes that are required by the Department, if the processes are provided at no substantial charge to the school. To comply with this requirement, a school may use software provided by the Department or software developed by the school, or its vendor, in accordance with specifications provided by the Department. Alternatively, a school may meet this requirement by the use of a third party servicer (for more information on third-party servicers, see Chapter 2).

The use of electronic processes is integral to achieving the Project EASI goal of an integrated student aid delivery system for students and schools. (For more information on Project EASI, see page 26.) The Department believes that widespread use of electronic processes will result in reduced burden on students and schools, provide a higher level of service to students, and result in improved school administration and accountability.

On September 19, 1997, the Department published a Notice in the Federal Register that identified required electronic processes for 1998 and 1999, including the system requirements for participation in the electronic processes. The Notice also listed training sessions offered by the Department to assist schools with their implementation of the required processes.

In October 1997, the Department provided additional guidance on the implementation of the electronic processes requirement, including additional information on training sessions, through the publication of Action Letter #2 (GEN-97-11).

Information from the September 19, 1997 Notice and the October 1997 Action Letter is included in this discussion.

Administrative Capability Cites
Sec. 498(d), 34 CFR 668.16

Required Electronic Processes
Cite
34 CFR 668.16 (o)



Notification of Hardware and Software Cite
 Sec. 481(a)

The table that follows list the required electronic processes and the deadline dates for implementation. A school that fails to participate in any of these processes by the required deadline date is considered by the Department to lack administrative capability to administer the SFA Programs properly.

Required Electronic Processes and Deadline Dates

Deadline Date	Designated Electronic Processes
January 1, 1998	<ul style="list-style-type: none"> ● Participate in the Title IV Wide Area Network (TIV WAN) ● For the 1998-99 Processing Year1 and Beyond: <ul style="list-style-type: none"> ✓ Receipt of Institutional Student Information Records (ISIRs)² ✓ Adding your school to the Central Processing System Record (CPS) ✓ Online Access to the National Student Loan Data System (NSLDS)
July 1, 1998	<ul style="list-style-type: none"> ● Access to the "Info for Financial Aid Professionals" website or the Student Financial Assistance Bulletin Board System (SFA BBS) ● Submission of the Application for Approval to Participate in Federal Student Aid Programs (recertification, reinstatement, and changes) through the Internet ● Submission of the Fiscal Operations Report and Application to Participate (FISAP) to the Title IV Wide Area Network (TIV WAN). Diskettes will be eliminated.
July 1, 1999	<ul style="list-style-type: none"> ● For the 1999-2000 Award year and Beyond: <ul style="list-style-type: none"> ✓ Report Federal Pell Grant Payments Electronically or on Magnetic Tape or Cartridge to the Title IV Wide Area Network (TIV WAN). Diskettes will be eliminated. ● Submit Student Status Confirmation Report (SSCR) data Electronically or on Magnetic Tape or Cartridge to the National Student Loan Data System (NSLDS). Diskettes will be eliminated. ● Submit Federal Perkins Loan Data Electronically or on Magnetic Tape or Cartridge to the National Student Loan Data System (NSLDS). Diskettes will be eliminated.

¹The application processing cycle lasts 18 months. For the 1998-99 award year, application processing begins in January 1998 and applications for that year will be accepted until June 30, 1999.

²The Department realizes that processing SFA Program funds upon the receipt of an ISIR, rather than the paper Student Aid Report (SAR), may be new for some schools. In order to provide these schools sufficient time to implement electronic procedures to receive ISIRs, the Department will not assess any penalties against a school that is not able to comply with this requirement on January 1, 1998. However, beginning July 1, 1998, all schools are expected to be receiving ISIRs electronically for any SFA applicant who has listed that school on the applicant record in the central processing system (CPS). The Department will begin assessing appropriate penalties at that time for schools found not to be awarding SFA Program funds to eligible applicants based on the receipt of the ISIR.



The Higher Education Amendments of 1998, Public law 105-244 (the Amendments of 1998) require the Department to notify, as practicable, schools, guaranty agencies, lenders, interested software providers, and, upon request, other interested parties, of software and hardware requirements by December 1 prior to the beginning of an award year.

The Technical Specifications table provides schools with information regarding hardware and software requirements that enables them to participate in these designated electronic processes. The left column of the Technical Specifications Table provides information on the current minimum configuration needed in order for a school to maintain a basic level of electronic efficiency. The right column provides information on the configuration needed to support the electronic requirements that began in January 1999.

When reviewing these specifications, schools should be aware that capacity requirements (processor speed, RAM, hard drive storage, etc.) are greatly affected by specific factors at each school, including which EDEExpress functions the school uses, number of records processed, and institutional database interfaces.

As electronic processes are announced for implementation, the Department will provide software where needed. A school is not restricted to using software provided by the Department to participate in an electronic process required by the Department. The school may also use software developed by the school or its vendor in accordance with specifications provided by the Department.

Technical Specifications

	<i>Current Minumum Configuration (Depending Upon Volume and Usage)</i>	<i>Minumum Configuration Required by January 1999</i>
Equipment	IBM or fully IBM-compatible PC 66 MHZ Processor 486DX2 16 MB RAM 300 MB Hard Disk Space 14,400 bps or higher baud Hayes or caparable Modem 3.5"/1.44 MB Diskette Drive SVGA Monitor Standard Keyboard Printer capable of printing on standard paper (8 1/2" x 11") 4x CD-ROM Drive with sound board ¹	IBM or fully IBM-compatible PC 200 MHZ Pentium Processor or comparable 64 MB RAM 4.0 GB SCSI Hard Drive 56K Analog Modem 3.5"/1.44 MB Diskette Drive SVGA Monitor Windows 95 Keyboard Laser printer capable of printing on standard paper (8 1/2" x 11") 12x CD-ROM Drive with sound board ¹
Software	MS-DOS version 6.2 or higher; Windows 3.1, 3.11 or 95 Internet Service Provider (ISP) ² Netscape Navigator 3.0 or 3.01 (domestic) or web browser ³	32 bit operating system (Windows 95 or Windows NT 4.x) Internet Service Provider (ISP) ² Netscape Navigator 3.0 or 3.01 (domestic) or web browser ³
Phone Line	Dedicated phone line	Dedicated phone line
Diskettes	3.5" high density double-sided diskettes	3.5" high density double-sided diskettes

¹Required if school wants to use the EDEExpress Tutorial and the AWARE software.

²Will be necessary to access the "Info for Financial Aid Professionals" website or the Student Financial Assistance Bulletin Board System and for submission of the Application for Approval to Participate in Federal Student Aid Programs (recertification, reinstatement and changes).

³Currently, must use Netcape Navigator 3.0 or 3.01 (domestic) in order to utilize FAFSA on the Web. The Department is currently testing other web browsers that will be made available to the public in the near future.

January 1, 1998 Requirements

TIV WAN Participation:

As of January 1, 1998, schools are required to participate in the Title IV Wide Area Network (TIV WAN) by which Title IV program financial aid data is electronically transmitted and received between the Department and schools.



In November 1998, the Department implemented new procedures for enrolling and updating information for the TIV WAN. These new procedures are described in Action Letter #4, published in November 1998 (GEN-98-24).

Receipt of ISIRs:

Beginning with the 1998-99 processing year (January 1998), schools are required to receive Institutional Student Information Records (ISIRs) either through the TIV WAN or on magnetic tape or cartridge.

Adding Your School to the Central Processing System (CPS) Record:

For the effective administration of the SFA Programs and to ensure the capability for future enhancements to the delivery system, the CPS must have a complete record of all schools an applicant is considering attending. The most immediate need for this information is to allow the National Student Loan Data System (NSLDS) to inform schools of potential changes to an applicant's eligibility for Title IV aid. (For more information on the NSLDS, see the *SFA Handbook: Student Eligibility*.) Therefore, beginning with the 1998-99 processing year, a school must ensure that its Title IV school code is added to the CPS record no later than 30 days after the school receives a SAR that does not list that school.

On-Line Access to NSLDS:

No later than January 1, 1998, schools must, as part of their Title IV WAN participation, have at least one staff member signed up for direct on-line access to the National Student Loan Data System (NSLDS). This access enables schools to fully utilize many of the special functions of the NSLDS. These include on-line financial aid transcripts (FATs), borrower tracking look-ups, and on-line updating of Student Status Confirmation Report.

For more information on the NSLDS, see the *SFA Handbook: Student Eligibility*.

July 1, 1998 Requirements

Access to the "Information for Financial Aid Professionals" Website

Beginning July 1, 1998, schools no longer automatically receive Departmental information through the mail, including most "Dear Colleague" letters, announcements, Federal Registers, etc. Instead, schools must have the capability to retrieve such documents from the

Department's Information for Financial Aid Professionals website. The specific Internet address to the website is:

<http://ifap.ed.gov/>

A school that uses a third-party servicer to meet this requirement needs to ensure that it is kept informed by its third-party servicer of all information posted by the Department on the IFAP website.

A school may enroll in the Department's "fax broadcast" service to receive automatically by facsimile high-priority messages from the Department. This service will be used for messages that need immediate attention. These messages will be posted on the IFAP website also. To enroll, a school may call 1-800-4FEDAID.



In order for a school to meet this requirement, as well as have the capability to submit recertification documents over the Internet, as discussed below, it must have Internet access through an Internet Service Provider, and have a World Wide Web browser, i.e., Netscape Navigator or Microsoft Internet Explorer. To download a copy of the Netscape Navigator software, the web address is <http://home.netscape.com>. The web address to download the Microsoft Internet Explorer software is

<http://www.microsoft.com/windows/ie/download/>

Schools must have the capability to print Federal Registers or other complex documents provided in Portable Document Format (PDF). The software for viewing and printing PDF files can be downloaded onto a school's PC hard drive for free from the Adobe Systems website at <http://www.adobe.com/prodindex/acrobat/readstep.html>.

Of course, a school may use other software to print these documents. Under the original requirement, schools were required to have access to the Student Financial Assistance Bulletin Board System (SFA BBS) in addition to the IFAP Website. However, The SFA BBS has been phased out. Information found on the SFA BBS can now be found on the IFAP Website, and the SFA BBS is no longer in operation.

Submission of the Application to Participate (Recertification) through the Internet:

As of July 1, 1998, applications for recertification, reinstatement, or changes in school ownership or structure must be submitted to the Department electronically through the Internet. The Department no longer provides diskettes to schools for submission of the "Application for Approval to Participate in Federal Student Financial Aid Programs." A signature page is required and must be mailed separately along with all required supporting documentation. Schools need to have access to the World Wide Web using a forms capable web browser

such as Netscape Navigator or Microsoft Internet Explorer. The web address to access the electronic application form is:

<http://www.eligcert.ed.gov/>

Schools must send electronic updates to their application data through the Internet. When a school accesses its application, it will be populated with data from the last recertification. The school changes the necessary data items, and transmits it for Departmental review and acceptance. The Application allows for changes in telephone numbers, fax numbers, names on the application, locations, vocational programs, etc.

For more information on applying for participation in the SFA Programs or providing updated information to application data, see Chapter 10.

Submission of the FISAP through the TIV WAN:

Beginning with the Fiscal Operations Report for 1997-98 and Application to Participate for 1999-2000 (FISAP) due October 1, 1998, schools are required to submit FISAP data through the TIV WAN. In the past, a FISAP could be submitted to the Department either through an electronic submission or by sending computer diskettes or magnetic tapes. The TIV WAN requirement eliminated the diskette and magnetic tape options and transferred the electronic submission to the TIV WAN.

January 1, 1999 Requirements

Windows 95, Windows NT or Higher:

As a technical requirement, schools must be prepared to process Department data, starting with the 1999-2000 award year, using either Windows 95, Windows NT, or a newer version of the Windows operating system. The Disk Operating System (DOS) and earlier versions of Windows are no longer supported.

Year 2000 Compliant:

As of January 1, 1999, all schools must be Year 2000 Compliant with regard to the processing of financial aid data. Year 2000 Compliant means that all data processing systems, procedures, and protocols are designed to handle the upcoming change in the century by storing and reporting date data in ways that differentiate between years prior to 2000 and Year 2000 and beyond. This issue is critical because many computer systems were not designed to accommodate a four-character year. That is, they were designed to store and process data about a year using just the last two digits (i.e. 1989=89). Such conventions are no longer sufficient as we move toward the new century.



July 1, 1999 Requirements

Submission of Federal Pell Grant Payment Data:

As of July 1, 1999, schools will use a new Recipient Financial Management System (RFMS) that replaces the existing Pell Grant

Recipient Financial Management System (PGRFMS) to report and request Federal Pell Grant student payment information.

For more information, see the Announcement Letter published July 1998 (ANN-98-8) and Action Letter #2, published in September 1998 (P-98-4).

Submission of SSCR Data to the NSLDS:

Beginning July 1, 1999, schools will be required to report Student Status Confirmation Report (SSCR) data electronically or by magnetic tape. The Department will no longer accept diskette submissions.

Submission of Federal Perkins Loan Data to the NSLDS:

Beginning July 1, 1999, schools will be required to report Federal Perkins Loan Data electronically or by magnetic tape. The Department will no longer accept diskette submissions of Federal Perkins Loan data.

Capable individual

An individual is "capable" if he or she is certified by the state (in which the school is located), if state certification is required. Other factors include the individual's successful completion of SFA Program training provided or approved by the Department, and previous experience and documented success in SFA Program administration.

COORDINATION OF AID

Another standard of administrative capability requires that an eligible school designate a capable individual to administer the SFA Programs and to coordinate aid from these programs with the school's other federal and nonfederal student aid programs. The school's administration must be coordinated in such a way that all the information it receives concerning a student's SFA eligibility—from any school office—is communicated to the financial aid administrator. To properly package and most effectively use the various types of student assistance (federal, school, state, private, etc.), a financial aid administrator must be aware of all sources of aid at the school and must be able to coordinate with all financial aid programs a school offers to ensure that a student's aid does not exceed his or her need.

CONSISTENCY OF STUDENT INFORMATION

The school must have a system of identifying and resolving discrepancies in the SFA-related information received by various school offices. Such a system would include a review of all financial aid and need analysis documents, federal and state income tax forms, and documents relating to admissions, citizenship, and previous educational experience. For instance, if a student receives veterans benefits through one school office, that office must notify the aid administrator of these benefits to ensure that the amounts are correctly reported on the student's aid application and are counted as a resource for the campus-based programs and estimated financial assistance for the Direct Loan and FFEL programs. As another example, the school's admissions or registrar's office must provide the financial aid office with any information that it has affecting a student's

eligibility—the student’s enrollment in an ineligible program, for instance, or past educational experience.

OIG REFERRALS

If the school finds that a student may have engaged in fraud or other criminal misconduct in applying for SFA Program funds, it must refer this information to the Department’s Office of Inspector General (OIG), which will in turn notify other officials as appropriate. (Please note that this requirement does not preclude the school from notifying other law enforcement agencies as necessary.) Some examples of fraudulent information include the use of false identities, forgery of signatures or certifications, and false claims of income, citizenship, or independent student status.

COUNSELING

The school must provide adequate financial aid counseling to all enrolled and prospective students and their families. Counseling must include, at a minimum, information about the source and amount of each type of aid offered, the method by which aid is determined and disbursed or applied to a student’s account, and the rights and responsibilities of the student associated with the student’s enrollment and receipt of financial aid. This information should include a description of the school’s refund policy, the requirements for the treatment of SFA Program funds when a student withdraws, satisfactory progress standards, and any other conditions or factors that may affect the student’s aid package. The school must also provide entrance and exit counseling for student borrowers in the Perkins, FFEL, and Direct Loan programs. For a complete discussion of loan counseling requirements, see the *SFA Handbook: Campus-Based Program Reference*, the *SFA Handbook: Direct Loan and FFEL Programs Reference*, and Direct Loan entrance and exit counseling guides.

ADEQUATE STAFFING

To manage a school’s aid programs effectively, the aid administrator must be supported by an adequate number of professional, paraprofessional, and clerical personnel. An “adequate” staff depends on the number of students aided, the number and types of programs in which the school participates, the number of applicants evaluated and processed, the amount of funds administered, and the type of financial aid delivery system the school uses. What may be adequate at one school may be completely insufficient at another. The Department will determine, on a case-by-case basis, whether a school has an adequate number of qualified persons, based on program reviews, audits, and information provided on the school’s application for approval to participate in the SFA Programs.

In addition to having a well-organized financial aid office staffed by qualified personnel, a school must ensure that its administrative procedures for the SFA Programs include an adequate system of internal checks and balances. This system, at a minimum, must separate the functions of authorizing payment and disbursing or delivering funds so that no one person or office exercises both functions for any student receiving SFA funds. Small schools are not exempt from this requirement even though they may have limited staff. Individuals working in either authorization or disbursement may perform other functions as well, but not both authorization and disbursement. These two functions must be performed by individuals who are not members of the same family and who do not together exercise substantial control over the school. If a school performs any aspect of these functions via computer, no one person may have the ability to change data that affect both authorization and disbursement.

Family

A member of an individual's family is a parent, sibling, spouse, child, spouse's parent or sibling, or sibling's or child's spouse.

Substantial Control

Substantial control is direct or indirect control over at least 25% ownership interest (either alone or with family members); representation (under voting trust, power of attorney, or proxy) of a person who individually or with a group has at least 25% ownership interest; status as CEO or other executive officer or member of a board of directors of an entity holding at least 25% ownership interest.

SATISFACTORY PROGRESS AND FINANCIAL AID HISTORY

Two institutional requirements are directly related to student eligibility: satisfactory academic progress and financial aid history. An eligible school must have a policy to measure the academic progress of its students, according to the elements of a reasonable standard of satisfactory progress as provided in the regulations. In addition, when a student transfers from one school to another, the new school must receive a financial aid history for the previous schools the student has attended before it disburses Federal Pell Grant, Direct Loan, FFEL, or campus-based funds to the student or certifies a PLUS Loan application. See the *SFA Handbook: Student Eligibility* for an overview of satisfactory progress and financial aid history requirements.

DEFAULT RATES

A school is not administratively capable when

- the cohort default rate for Perkins Loans made to students for attendance at the school exceeds 15% (see Chapter 6 for details), or
- the cohort default rate for Stafford/SLS loans or for Direct Loans made to students for attendance at the school equals or exceeds 25% for one or more of the three most recent fiscal years (see Chapters 10 and 11 for details).

If a school is not administratively capable solely because of a high default rate, the Department will provisionally certify the school.

In addition to affecting a school's administrative capability and limiting the school's participation in the SFA Programs, a high default rate may make a school ineligible to participate in the FFEL, Direct Loan or Perkins programs or cause the Department to limit, suspend, or terminate a school's participation in the SFA Programs. See the *SFA Handbook: Campus-Based Program Reference* and the *SFA*

Exemption from Default Management Plan Cite

Sec. 487(a)(14)(C)

Default Rates and Pell Participation Cite

Sec. 401(j)

Enrolled

A student enrolls when he or she completes the registration requirements (except payment of tuition and fees) at the school. Correspondence students are enrolled if they have been admitted to the program and have submitted one lesson (that was completed without the assistance of a school representative).

Amendments
of 1998

Amendments
of 1998

Handbook:Direct Loan and FFEL Programs Reference for detailed information on default requirements.

Default Management Plan

In the past, a school with a Stafford/SLS default rate of specified percentages was required to implement some or all of the default reduction measures of 34 CFR Part 668, Appendix D of the General Provision regulations. Final regulations published December 1, 1995 that revised several aspects of the Department's default prevention and reduction measures removed these requirements beginning with the 1996-97 award year. However, new schools are still required to develop a default management plan prior to certification. Also, a school that undergoes a change in ownership that results in a change in control, or a school that changes its status as a main campus, branch campus, or additional location must also develop a default management plan.

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) provide that a school is exempt from submitting a default management plan if (a) the parent institution and the subordinate institution both have a cohort default rate of 10 percent or less and (b) the new owner of the parent or subordinate institution does not own, and has not owned, any other school with a cohort default rate over 10 percent.

The Amendments of 1998 also added a provision that makes a school ineligible to participate in the Federal Pell Grant Program if it loses eligibility to participate in the FFEL or the Direct Loan programs due to high default rates after the publication of final default rates for fiscal year 1996, or a subsequent fiscal year. A school may appeal its default rate before its participation in Pell is eliminated.

This provision applies to schools participating in the FFEL or Direct Loan programs on October 7, 1998 (the date of enactment of the Amendments of 1998) unless an institution later participates in the loan programs.

The Amendments also make several changes to default rate requirements for the Perkins Loan Program. See the *SFA Handbook: Campus-Based Programs Reference* for more information.

WITHDRAWAL RATES

New schools (schools that seek to participate in an SFA Program for the first time) must have an undergraduate withdrawal rate for regular students of no more than 33% for an award year in order to be considered administratively capable.

When calculating the withdrawal rate, all regular, enrolled students must be included. The definition of "enrolled" does not require either payment of tuition or class attendance; therefore, the withdrawal rate calculation must include enrolled students who have not yet paid tuition or who did not actually begin attending classes. A student is

considered to have withdrawn if he or she officially withdraws, unofficially drops out, or is expelled from the school or receives a refund of 100% of his or her tuition and fees (less any permitted administrative fee). A student who withdraws from one or more courses or programs, but does not withdraw entirely from the school, does not meet the definition of “withdrawn.” Note that the 33% withdrawal rate applies to all enrolled, regular students—not just to SFA recipients.

DEBARMENT AND SUSPENSION CERTIFICATION

Debarment of School or its Principals

Debarment and suspension requirements are also a part of the administrative capability standards. Debarment and suspension actions are imposed against individuals who the government determines constitute a current risk to federal agencies based on the individual’s actions. The Department gives effect to debarment and suspension actions by other agencies that have been imposed under procedures that provide due process protections equivalent to those afforded by the Department.

Before a school may receive Pell Grant or campus-based funding, a school must certify that neither the school nor its employees have been debarred or suspended by a federal agency. This certification is on the PPA and, for schools participating in the campus-based programs, is included on ED Form 80-0013, which is a part of the FISAP package mailed to schools each summer.

If the school or its principals have been suspended, debarred, or proposed for debarment by one federal agency, the school is no longer eligible to participate in any SFA Program. The principals of the school include the owners, the directors, officers, partners, employees, or any other person with primary management or supervisory responsibilities. A principal may also be someone who is not employed by the school, but who has critical influence on or substantive influence over a covered transaction (such as the receipt of Pell Grant or campus-based funds).

If a school discovers that a person employed in a primary management or supervisory capacity has been suspended or debarred by a federal agency, the school must remove that person from such a position or risk losing its SFA eligibility.

Similar debarment and suspension procedures apply to debarments and suspensions of lenders or loan servicers under the FFEL Programs.

Checking Prospective Employees or Contractors

To protect itself, a school might ask prospective employees and contractors about previous debarment or suspension, either in person or on a written application. A school may also call the Department to find out if an individual or organization is on the Nonprocurement List. The debarment or suspension of a person who is not a principal of the school and who does not work in the financial aid office will not

affect the school's SFA eligibility, so long as that person is not involved in any covered transactions. The regulations list the particular transactions from which a debarred or suspended entity is excluded under the SFA Programs.

Lower-tier Covered Transactions

A school must not enter into lower-tier covered transactions with a debarred or suspended individual or organization. A lower-tier covered transaction is any transaction between a participant in a covered transaction (such as the school) and another individual or organization, if that transaction stems from a covered transaction. Examples of common lower-tier covered transactions are a school's contracts with a financial aid consultant service or with a loan collection or billing agency. A school must obtain a certification from any lower-tier organization if the amount of the lower-tier transaction is \$25,000 or more. (The required certification clause is given on page 25 of "Dear Colleague" letter GEN-89-21.) The lower-tier organization must inform the school in writing if the organization or its principals are debarred or suspended. Therefore, the certification does not need to be renewed from year to year.

Financial Responsibility

In this chapter, we discuss the financial responsibility requirements for all schools participating in the SFA Programs.

In order to participate in the SFA Programs, a school must demonstrate that it is financially responsible. To provide the Department with the information necessary to evaluate a school's financial responsibility, schools are required to submit financial information to the Department every year. A school must provide this financial information in the form of an audited financial statement as part of a combined submission that also includes the school's compliance audit. The combined submission must be submitted to the Department within six months of the end of the school's fiscal year. See Chapter 11 for more information on required audit submissions.

The Higher Education Amendments of 1998, Public Law 105-244, (the Amendments of 1998) made the following changes to the financial responsibility requirements:

- The criteria used to determine the financial responsibility of a school is revised to be based on whether it meets certain ratios that demonstrate financial responsibility. Previous criteria required the Department to consider operating losses, net worth, asset-to-liabilities ratios, or operating fund deficits.
- Public schools are included with for-profit and nonprofit institutions with respect to taking into consideration differences in generally accepted accounting principles.
- The Department is permitted to determine what third-party financial guarantees are acceptable in order for a school to be considered financially responsible even though it failed to meet other mandated measures of financial responsibility.

NOVEMBER 25, 1997 FINAL REGULATIONS

A notice of proposed rulemaking (NPRM) published September 20, 1996, proposed implementation of new financial responsibility standards. In response to public comment, the comment period on some portions of the NPRM was extended through April 14, 1997.

Financial Responsibility Cites
Sec. 498(c), 34 CFR 668 Subpart L

Amendments
of 1998



Final regulations were published November 25, 1997. These financial responsibility requirements are applicable to schools that submit audited financial statements on or after July 1, 1998. A discussion of the provisions implemented by these final regulations is included here.

What follows is a general overview of the financial responsibility standards. Schools should refer to Subpart L of the Student Assistance General Provisions for complete information. For information regarding accounting and compliance issues, a school should contact its Case Management Team (see page 251 for contact information).

The Department determines whether a school is financially responsible based on its ability to

- provide the services described in its official publications and statements,
- administer properly the SFA program in which the school participates, and
- meet all of its financial obligations.



Under the regulations of November 25, 1997, the financial responsibility standards can be divided into two categories: (1) General standards, which are basic standards that are used to evaluate a school's financial health, and (2) Performance and affiliation standards, which are standards that are used to evaluate a school's past performance and to evaluate persons affiliated with the school.

Schools are no longer required to meet standards that apply specifically to each type of school. Instead, differences among sectors of schools (for example, proprietary, private nonprofit, and public) are taken into account by variances within a standard. This change is discussed more fully in the discussion of the new composite score standard.

GENERAL STANDARDS

Proprietary or private nonprofit institution

A proprietary or private nonprofit institution is financially responsible if the Department determines that



- the school has a composite score of at least 1.5,
- the school has sufficient cash reserves to make required refunds (these requirements are known as the "refund reserve standards"),
- the school is current in its debt payments, and
- the school is meeting all of its financial obligations, including making required refunds and making repayments to cover SFA Program debts and liabilities.

These requirements are discussed in more detail below.

Audit opinions and past performance

Even if a school meets all of the general requirements, the Department does not consider the school to be financially responsible if

- the school has a statement by the auditor in its audited financial statement expressing doubt about the continued existence of the school as a “going concern,” or an adverse, qualified, or disclaimed opinion (unless the Department determines that a qualified or disclaimed opinion does not have a significant bearing on the school’s financial condition), or
- the school violated one of the past performance requirements discussed below.

Composite score

In the past, a school had to meet separate tests for assessing the financial condition of the school. The school was required to meet the minimum standard for each separate test. For example, a proprietary school was required to meet an acid test ratio, and standards for tangible net worth and operating losses. A nonprofit school was required to meet an acid test ratio, and standards for measuring unrestricted fund balances or assets, or fund expenditures over fund revenues. The November 25, 1997 final regulations replaced these separate tests for proprietary and private non-profit institutions with a single standard called the composite score standard. The composite score standard combines different measures of fundamental elements of financial health to yield a single measure of a school’s overall financial health. This method allows financial strength in one area to make up for financial weakness in another area. In addition, this method provides an equitable measure of the financial health of schools of different sizes.



Some aspects of the composite score methodology (for example, the calculation of ratios) vary depending on whether the school is a proprietary institution or a private non-profit institution. The variance takes into account the accounting differences between these sectors of postsecondary institutions. However, the basic steps used to arrive at the composite score are the same. For complete information on the calculation of the composite score, schools should refer to Appendices F and G of the General Provisions regulations.

The first step in calculation a school’s composite score is to determine the school’s primary reserve, equity, and net income ratios by using information from the school’s audited financial statement in the ratios established by the Department. These ratios are used to take into account the total financial resources of the school. The primary reserve ratio represents a school’s viability and liquidity. The equity ratio represents a school’s ability to borrow and its capital resources. The net income ratio represents a school’s profitability. Some items from a school’s audited financial statement may be excluded from the

calculation of the ratios. For example, the Department may exclude the effects of questionable accounting treatments, such as excessive capitalization of marketing costs, from the ratio calculations. See 34 CFR 668.172(c) for more information on possible exclusions.

A strength factor score is then calculated for each ratio using equations established by the Department. A strength factor score reflects a school's relative strength or weakness in a fundamental element of financial health, as measured by each of the ratios. Specifically, the strength factor scores reflect the extent to which a school has the financial resources to: 1) replace existing technology with newer technology; 2) replace physical capital that wears out over time; 3) recruit, retain, and re-train faculty and staff (human capital); and 4) develop new programs.

A weighting percentage is applied to each strength factor score to obtain a weighted score for each ratio. The weighting percentages reflect the relative importance that each fundamental element has for a school in a particular sector (proprietary or private non-profit).

The sum of the weighted scores equals the school's composite score. Because the weighted scores reflect the strengths and weaknesses represented by the ratios and take into account the importance of those strengths and weaknesses, a strength in the weighted score of one ratio may compensate for a weakness in the weighted score of another ratio. The example below illustrates the calculation of a composite score for a proprietary institution.

Example of a Calculation of a Composite Score for a Proprietary Institution*		
Calculation of Ratios		
Primary Reserve Ratio =	$\frac{\text{Adjusted Equity}}{\text{Total Expenses}} = \frac{\$760,000}{\$9,500,000}$	= 0.080
Equity Ratio =	$\frac{\text{Modified Equity}}{\text{Modified Assets}} = \frac{\$810,000}{\$2,440,000}$	= 0.332
Net Income Ratio =	$\frac{\text{Income Before Taxes}}{\text{Total Revenues}} = \frac{\$510,000}{\$10,010,000}$	= 0.051
Calculation of Strength Factor Score		
Primary Reserve Strength Factor Score =	20 x Primary Reserve Ratio	20 x 0.080 = 1.600
Equity Strength Factor Score =	6 x Equity Ratio	6 x 0.332 = 1.992
Net Income Strength Factor Score =	1 + (33.3 x Net Income Ratio)	1 + (33.3 x 0.051) = 2.698
Calculation of Weighted Score		
Primary Reserve Weighted Score =	30% x Primary Reserve Strength Factor Score	0.30 x 1.600 = 0.480
Equity Weighted Score =	40% x Equity Strength Factor Score	0.40 x 1.992 = 0.797
Net Income Weighted Score =	30% x Net Income Strength Factor Score	0.30 x 2.698 = 0.809
Composite Score		
Sum of all weighted scores	0.480 + 0.797 + 0.809 = 2.086 rounded to 2.1	
*The definition of terms used in the ratios and the applicable strength factor algorithms and weighting percentages are found in Appendix F of the General Provisions for proprietary institutions and Appendix G for private nonprofit institutions.		

Once the composite score is calculated, it is measured along a common scale from negative 1.0 to positive 3.0 as indicated in the chart below. This scale reflects the degree of certainty that a school will be able to continue operations and meet its obligations to students and the Department.

Financial Responsibility Composite Score Scale	
1.5 to 3.0	Financially responsible without further oversight
1.0 to 1.4	Financially responsible if meet the "zone alternative" or 50% or greater letter of credit alternative. May be permitted to participate under provisional certification with smaller letter of credit, but not considered financially responsible.*
-1.0 to .9	Financially responsible if meet the 50% or greater letter of credit alternative. May be permitted to participate under provisional certification with smaller letter of credit, but not considered financially responsible ("zone alternative" not available).*

*Transition year alternative available for one year.

Refund Reserve Standards

A school must have sufficient cash reserves to make any required refunds (see Chapter 6 for more information on refunds, including timely payment of refunds). The Department considers a school to have sufficient cash reserves if the school meets one of the following three criteria:

- satisfies the requirements of a public school (see the discussion of public schools under "General Standards"),
- is located in a state that has a tuition recovery fund approved by the Department and the school contributes to that fund, or
- demonstrates that it make its refunds timely.

A school has made its refunds timely if it can demonstrate, through audits for the two most recent fiscal years, that for the past two years the school has paid all required refunds on time.

The Department provides for a small margin of error in determining that a school has paid all required refunds on time. The Department considers a school to have paid refunds timely if

- there is less than a five percent error rate in the sample of refunds examined by a reviewer or auditor (i.e., the school failed to make timely refunds to less than five percent of the students in the sample), or
- Δ there is only one late refund in the sample of refunds examined by a reviewer or auditor (regardless of the percentage of refunds in the sample represented by the one late refund), and

Δ the reviewer or auditor did not note for either fiscal year a material weakness or a reportable condition in the school's report on internal controls that is related to refunds.

If a finding is made that a school no longer meets any of the three criteria for demonstrating that it has sufficient cash reserves to make any required refunds, the school must post a letter of credit equal to 25% of the total SFA Program refunds made or that should have been made by the school during its most recently completed fiscal year. The school must submit the letter of credit to the Department no later than 30 days after the school is notified of the finding, or no later than 30 days after the school's compliance audit is due, if it was the auditor that conducted the school's compliance audit who determines that the school no longer qualifies. A school must send the letter of credit to

U.S. Department of Education
Institutional Participation and Oversight Service
P.O. Box 23800
L'Enfant Plaza Station
Washington, DC 20026
ATTN: Director, IPOS

In addition to posting the letter of credit, if a guaranty agency or state review determines that the school no longer meets the refund reserve standard, the school must notify the Department of the guaranty agency or state that conducted the review.

When a state submits a tuition recovery fund for evaluation by the Department, the Department will consider the extent to which the recovery fund

- provides refunds to both in-state and out-of-state students,
- complies with SFA Program requirements for the order of return of refunds to sources of assistance, and
- will be replenished if any claims arise that deplete the fund.

Current in debt payments

A school is not current in its debt payments if

- it is in violation of any existing loan agreement at its fiscal year end, as disclosed in a note to its audited financial statements or audit opinion, or
- fails to make a payment in accordance with existing debt obligations for more than 120 days, and at least one creditor has filed suit to recover funds under those obligations).

Public schools

A public school is financially responsible if its debts and liabilities are backed by the full faith and credit of the state or other government entity. The Department considers a public school to have that backing if the school notifies the Department that it is designated as a public school by the State, local, or municipal government entity, tribal authority, or other government entity that has the legal authority to make that designation. The school must also provide the Department with a letter from an official of the appropriate government entity confirming the school's status as a public school. A letter from a government entity may include a confirmation of public school status for more than one school under that government's purview.



A public school must also meet the past performance and affiliation standards discussed below. Also, public schools are still subject to the Department's reporting requirements which require the submission of financial statements that are prepared in accordance with generally accepted accounting principles (GAAP) and on the accrual basis.

The letter is a one-time submission and should be submitted as soon as possible separately from the financial statements.

The public institution should submit the letter as follows.

If by U.S. Postal Service:

U.S. Department of Education
Institutional Participation and Oversight Service
P. O. Box 44805
L'Enfant Plaza Station
Washington, D.C. 20026-4805

If by commercial overnight mail/courier delivery:

U.S. Department of Education
Institutional Participation and Oversight Service
7th & D Streets, S.W.
GSA Building, Room 3514
Washington, D.C. 20407

ALTERNATIVES TO THE GENERAL STANDARDS

If a school does not meet the general standards for financial responsibility, the Department may still consider the school to be financially responsible or may allow the school to participate under provisional certification if the school qualifies for an alternative standard.

If the Department determines that a school that does not meet one or more of the general standards also does not qualify for an alternative, the Department may initiate a limitation, suspension, or termination action against the school (see Chapter 11 for more information).

The alternate standards were changed by the November 25, 1997 final regulations to reflect changes made to the general standards. For example, the “precipitous closure alternative” has been replaced by the “zone alternative.”



LOC alternative for new school

A new school (a school that seeks to participate in the SFA Programs for the first time) that does not meet the composite score standard (i.e., has a composite score of less than 1.5), but meets all other standards, may demonstrate financial responsibility by submitting an irrevocable letter of credit to the Department. The letter of credit must be acceptable and payable to the Department and equal to at least 50 percent of the SFA Program funds that the Department determines that the school would receive during its initial year of participation.

LOC alternative for participating school

A participating proprietary or private nonprofit institution that fails to meet one or more of the general standards or isn't financially responsible because it has of an unacceptable audit opinion, may demonstrate financial responsibility by submitting an irrevocable letter of credit to the Department. The letter of credit must be acceptable and payable to the Department and equal to at least 50 percent of the SFA Program funds that the school has received during its most recently completed fiscal year.



Zone alternative

A participating school that fails to meet the composite score standard (i.e., has a composite score of less than 1.5), but meets all other standards, may demonstrate financial responsibility for up to three consecutive fiscal years if the Department determines that the school's composite score is equal to 1.0 to 1.4 for each of those years and the school meets specific monitoring requirements.

This alternative gives a school the opportunity to improve its financial condition over time without requiring the school to post a letter of credit or participate under provisional certification. Under the zone alternative, a school's operations, including its administration of the SFA Programs, are monitored more closely. If a school does not score at least 1.0 in one of the three subsequent fiscal years or does not improve its financial condition to attain a composite score of at least 1.5 by the end of the three-year period, the school must satisfy another alternative standard to continue to participate. In addition, if a school fails to comply with the information reporting or payment method requirements, the department may determine that the school no longer qualifies under this alternative.

Under this alternative, the school

- must request and receive funds under the cash monitoring or reimbursement payment methods, as specified by the Department (see Chapter 5 for more information);

- must provide timely information regarding certain oversight and financial events (for example, any adverse action taken by the school's accrediting agency). A school should refer to 34 CFR 668.175(d) for more information;
- may be required to submit its financial statement and compliance audit earlier than normally required (see Chapter 11 for more information on audit submission deadlines); and
- may be required to provide information about its current operations and future plans.

The school must also require its auditor to express an opinion as part of the school's compliance audit, on the school's compliance with the requirements of the zone alternative, including the school's administration of the payment method under which the school received and disbursed SFA Program funds.

Transition year alternative

In order to provide schools with an opportunity to prepare for the evaluation of their financial responsibility under the November 25, 1997 standards, a transition period of one year was established. The transition year period varies for each school because it is based on each school's fiscal year. A school's transition year is the school's fiscal year that began on or after July 1, 1997 but on or before June 30, 1998.



During its transition year, a school that has a composite score of less than 1.5 may demonstrate financial responsibility by meeting the general financial responsibility standards that were in effect immediately prior to the November 25, 1997 final regulations. If a school fails to satisfy both the composite score standard and the "old" general financial responsibility standards, the school must meet one of the alternative standards. For any fiscal year that begins on or after the July 1, 1998 effective date of the November 25, 1997 regulations, a school must satisfy the requirements under the November 25, 1997 regulations.

Provisional certification for school not meeting standards

If a participating proprietary or private nonprofit institution fails to meet one or more of the general standards or is not financially responsible because it has an unacceptable audit opinion, the Department may permit the school to participate under provisional certification for up to three years. For example, a school with a composite score of less than 1.0 that cannot post the 50 percent letter of credit required for the letter of credit alternative, may be permitted to continue to participate under provisional certification by submitting a smaller letter of credit.

The Department may also permit a school that is not financially responsible because of a condition of past performance of the school to participate under provisional certification for up to three years if the school demonstrates to the Department that it has satisfied or resolved the condition.

A school that participates under provisional certification for a lack of financial responsibility does so under the following conditions

- the school must submit to the Department a letter of credit, payable and acceptable to the Department, for an amount determined by the Department (this amount must be equal to at least 10% of the SFA Program funds received by the school during its most recent fiscal year),
- the school must demonstrate that it has met all of its financial obligations and was current on its debt payments for its two most recent fiscal years, and
- the Department may require the school to comply with the requirement under the zone alternative that the school provide timely information regarding certain oversight and financial events.

If a school is still not financially responsible at the end of a period of provisional certification, the Department may again permit provisional certification. However, the Department may require the school or persons or entities that exercise substantial control over the school to submit financial guarantees to the Department to satisfy any potential liabilities arising from the school's SFA Program participation. The same persons may be required to agree to be jointly and severally liable for any SFA Program liabilities.

The Department is not required to offer provisional certification to a school. It is an alternative that the Department may offer the school instead of denying an application for recertification.

Provisional certification for school where persons or entities owe liabilities

If a school is not financially responsible because the persons or entities that exercise substantial control over the school owe an SFA Program liability, the Department may permit the school to participate under provisional certification if

- the persons or entities that owe the liability repay or enter into an agreement with the Department to repay the liability. In lieu of this, the school may assume the liability and repay or enter into an agreement to repay the liability;
- the school meets all the general standards of financial responsibility (except that the school must demonstrate that it has met all of its financial obligations and was current on its debt payments for its two most recent fiscal years; and
- the school submits to the Department a letter of credit, payable and acceptable to the Department, for an amount determined by the Department (this amount must be equal to at least 10%

of the SFA Program funds received by the school during its most recent fiscal year).

The school must comply with the requirement under the zone alternative that the school provide timely information regarding certain oversight and financial events.

In addition, the Department may require the school or persons or entities that exercise substantial control over the school to submit financial guarantees to the Department to satisfy any potential liabilities arising from the school's SFA Program participation. The same persons may be required to agree to be jointly and severally liable for any SFA Program liabilities.

Again, provisional certification is offered to a school at the Department's discretion. The Department is not required to offer provisional certification to a school.

PAST PERFORMANCE AND AFFILIATION STANDARDS

As mentioned at the beginning of this chapter, in addition to meeting the numeric standards of financial responsibility, a school must also demonstrate that it administers properly the SFA Programs in which it participates and that it meets all of its financial obligations, including repayments to the department for debts and liabilities. A school's financial responsibility is also evaluated based on the past performance of the school and persons affiliated with the school. Certain past actions of a school or a person affiliated with a school may reveal mismanagement of SFA Program funds, thereby demonstrating that a school is not financially responsible.

Past performance of a school

A school is not financially responsible if the school

- has been subject to a limitation, suspension, or termination action, or entered into an agreement to resolve a limitation, suspension, or termination action initiated by the Department or a guaranty agency in the last five years,
- has had, in the last two SFA program reviews or audits, findings for the current fiscal year or its two preceding fiscal years, that required a repayment of more than 5% of the SFA Program funds received by the school for the year covered by the review or audit,
- has been cited during the last five years for failing to submit audits as required, and
- has failed to satisfactorily resolve any compliance problems identified in program reviews or audit reports, based upon a final decision of the Department.

Family

A member of a person's family is a parent, sibling, spouse, child, spouse's parent or sibling, or sibling's or child's spouse.

Past performance of persons affiliated with a school

A school is not financially responsible if a person who exercises substantial control over the school (or any members of the person's family alone or together) owes a liability for an SFA Program violation, or has ever exercised substantial control over another school (or a third-party servicer) that owes a liability for an SFA Program violation, unless that person, family member, institution, or servicer demonstrates that the liability is being repaid in accordance with an agreement with the Department.

The Department may consider a school that does not meet this requirement to be financially responsible if the school

- notifies the Department that the person repaid to the Department an acceptable portion of the liability, in accordance with the regulations,
- notifies the Department that the liability is currently being repaid in accordance with a written agreement with the Department, or
- demonstrates to the satisfaction of the Department 1) why the person who exercises substantial control should nevertheless be considered to lack that control, or (2) why the person who exercises substantial control and each member of that person's family does not or did not exercise substantial control over the institution or servicer that owes the liability.

In the past, schools were required to maintain fidelity bond coverage for its employees. This is no longer a federal requirement for schools that participate in the SFA Programs. However, some schools are still required to maintain fidelity bond coverage because state laws require it. Even if it is not required to do so, a school may choose to maintain fidelity bond coverage to protect itself when losses occur resulting from a lack of integrity, honesty, or fidelity on the part of the school's employees or officers.

A school must report any changes of control under which a person acquires the ability to affect substantially the actions of the school. Such changes in control could call into question the school's financial responsibility. (For more information, see Chapter 10.)

FINANCIAL STATEMENTS

All financial statements are received by the Document Receipt and Control Center (DRCC). The DRCC calculates a school's composite score. The DRCC also assesses a school's economic viability and any unusual accounting treatments or policies. If a school's composite score is below 1.5, the DRCC will forward the school's financial statement to the Department's case management team. The DRCC will also forward a school's financial statement upon the request of a case team.

If by U.S. Postal Service

U.S. Department of Education, IPOS
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026-4085

If by commercial overnight or courier delivery

U.S. Department of Education, IPOS
7th and D Streets, SW
GSA Building, Room 3514
Washington, DC 20026-4085

FOREIGN SCHOOLS

A foreign school must meet the financial responsibility standards for domestic schools unless the school received less than \$500,000 (in United States dollars) in SFA Program funds during its most recently completed fiscal year. A school that received less than \$500,000 will have its financial responsibility determined through the Department's examination of the school's audited financial statement for the school's most recently completed fiscal year, and may have its audited financial statement prepared according to the standards of the school's home country. A foreign school that received \$500,000 or more in SFA Program funds during its most recently completed fiscal year must have its audited financial statement translated and presented for analysis under U.S. Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS).

The cash management requirements govern a school's management of most SFA Program funds. These requirements establish rules and procedures that a school must follow in requesting, maintaining, disbursing, and otherwise managing funds under the Pell Grant, FSEOG, Perkins Loan, FWS, Direct Loan, and FFEL programs.

These cash management requirements are not applicable to the state grant and scholarship programs because, unlike other SFA Programs, the state grant and scholarship programs are administered by the states. Therefore, the Department allows states administrative discretion in the management of these funds, as long as the states administer these programs within the limits established by applicable federal statutes and regulations. These state programs are: the Leveraging Educational Assistance Partnership Program (formerly the State Student Incentive Grant [SSIG] Program), Robert C. Byrd Honors Scholarship (Byrd) Program, and the Gaining Early Awareness and Readiness For Undergraduate Programs (which replaces the National Early Intervention Scholarship and Partnership [NEISP] Program).



PURPOSE OF CASH MANAGEMENT REQUIREMENTS

The cash management requirements are intended to

- promote sound cash management of SFA Program funds by schools,
- minimize the costs to the government of making SFA Program funds available to students and schools, and
- minimize the costs that accrue to students who receive SFA loans.

The SFA Program funds received by a school are intended solely for the use of student beneficiaries, except for funds received as an administrative cost allowance, which are intended as a payment to the school, and funds used for the Job Location and Development Program under the FWS Program. (See the Administrative Cost Allowance discussion on page 87.) All other funds are held in trust by the school for students, the Department, and also, in the case of FFEL

Cash Management
34 CFR Subpart K

CLARIFICATION

Purpose of Requirements Cite
34 CFR 668.161

Parent:

For purposes of the cash management requirements, a "parent" means a parent borrower under the PLUS Program.

Requesting Funds Cite
34 CFR 668.162, except as noted

Program funds, for lenders and guaranty agencies. SFA Program funds cannot be used as collateral or for any other purpose.

These rules and procedures also apply to a third-party servicer. For more information about third-party servicers, see the discussion in Chapter 2.

REQUESTING FUNDS

Currently, the Department provides Pell Grant, Direct Loan, and campus based program funds to a school either by the “advance payment method” or the “reimbursement payment method.” Final regulations published November 29, 1996 introduced a third method for requesting funds from the Department: the just-in-time payment method. The Department has the sole discretion to determine the method under which SFA Program funds are provided to a school (although at this time, participation in the just-in-time payment method will be voluntary).

The Advance Payment Method

Under the advance payment method, a school may submit a request for Pell Grant, Direct Loan, and campus-based program funds to the Department prior to disbursing aid to eligible students and parents. If the Department accepts a school’s request for funds, it will make an electronic funds transfer (EFT) of the amount requested to a bank account designated by the school. A school may not request more funds than the school needs immediately for disbursements the school has made or will make to eligible students and parents. Therefore, a school must make the disbursements as soon as administratively feasible, but no later than three business days following the date the school received those funds.

The Department does not automatically accept a request for funds from a school under the advance payment method. For example, the Department may reject a request if the amount of the request exceeds the amount of funds the school is authorized to draw down.

The Reimbursement Method

Under the reimbursement method, a school must disburse Pell Grant, Direct Loan, and campus-based program funds to eligible students and parents before requesting funds from the Department. Generally, the Department places a school on the reimbursement payment method if it determines that there is a need to monitor strictly the school’s participation in the SFA Programs. The school cannot request more cash than the amount that it actually disbursed to those eligible students and parents. As part of the school’s request the school must

- identify the students and parents for whom it is seeking reimbursement, and
- submit documentation demonstrating that each student and parent included in the request was eligible to receive and has

received the SFA Program funds for which reimbursement is requested.

Before approving a school's request for funds, the Department determines that the school has

- accurately determined the SFA eligibility of each student,
- accurately determined the SFA payment to each student and parent included in its request, and
- submitted the required documentation.

Limitations on use of FFEL Funds

There are comparable limitations on the use of FFEL funds. If a school is placed on reimbursement, or a school that participates only in the FFEL Program has most of the limitations of reimbursement placed on it, the school

- may not disburse FFEL Program funds to a borrower until the Department approves the school's request to disburse funds to that borrower, and
- if prohibited by the Department, may not certify a loan application for a borrower until the Department approves the school's request to make the certification for that borrower (this restriction applies on the date that the Department notifies a school that it must obtain approval from the Department to certify loan applications).

The school must provide documentation demonstrating that each borrower included in the request is eligible to receive the disbursement or certification. The documentation must be provided to the Department or an entity approved by the Department for that purpose (for example, a certified public accountant, financial aid consultant, or guaranty agency).

Until the Department approves a request, the school may be

- prohibited from endorsing a master check or obtaining a borrower's endorsement of any loan check the school receives from a lender,
- required to maintain loan funds that it receives from a lender via EFT in a separate bank account, and
- prohibited from certifying a borrower's loan application.

Because the school's submission and the Department's review of documentation to support a borrower's eligibility takes time, the school may delay returning FFEL Program funds provided by EFT or master check to a lender for a specified period of time (see the *SFA Handbook: Direct Loan and FFEL Programs Reference*).

Limitations on use of FFEL Funds
Cite
34 CFR 668.167(d)



The Cash Monitoring Payment Method

Final regulations published November 25, 1997 introduced the cash monitoring payment method. This payment method is similar to the reimbursement payment method, but less onerous. Like the reimbursement payment method, under the cash monitoring payment method, a school must first make disbursements to eligible students and parents before it requests or receives funds for those disbursements from the Department.

Unlike the reimbursement payment method, where a school must provide specific detailed documentation for each student to whom it made a disbursement before the Department provides SFA Program funds to the school, the Department provides funds to a school in one of two ways:

- the Department allows a school to make a draw of SFA program funds for the amount of the disbursements the school has made to eligible students and parents, or
- the Department reimburses the school for those disbursements based on a modified and streamlined review and approval process.

For example, instead of requiring a school to provide specific documentation for each student to whom the school made a disbursement and reviewing that documentation before providing funds to the school, the Department may simply require the school to identify those students and their respective disbursement amounts and provide SFA Program funds to the school based solely on that information.

A school that is placed under the cash monitoring payment method is subject to the disbursement and certification provisions that apply to FFEL Program funds when a school is placed on reimbursement, but in keeping with the nature of cash monitoring, the Department may modify those provisions.

Note that the Department may tailor the required documentation requirements on a case-by-case basis.

The Just-In-Time payment method

The just-in-time payment method, introduced in the November 29, 1996 final regulations, is part of the student-centered integrated delivery system under development by Project EASI. (For more information on Project EASI, see Chapter 2). In "Dear Colleague" letter P-98-5, the Department invited schools to consider volunteering to be the first participants in the just-in-time payment method by participating in a pilot program starting in the 1999-2000 award year. Pilot participants will use the just-in-time payment method for the Pell Grant Program only. The pilot program is part of the implementation of the new Federal Pell Grant Program Recipient Financial Management System (RFMS). For more information on RFMS, see the *SFA Handbook, Student Eligibility*.



Under the just-in-time payment method pilot, a school will submit a disbursement record (the disbursement record will be both a report of a disbursement and a request for funds) no earlier than 5 days before the actual reported date of disbursement. For each request the Department accepts for a student or parent, the appropriate amount of funds will be deposited directly into the school's bank account.

Schools participating in the just-in-time payment method pilot will be exempt from the following regulatory requirements with respect to Federal Pell Grant funds:

(1) the "three-day-use" rule required for the advance payment method. (Section 668.162(b) (3). See page 68.)

(2) the reverification of student eligibility at the time of disbursement (an institution may rely on its determination at the time it submits the disbursement record for Federal Pell Grant funds). (Section 668.162(c) (3)).

(3) the requirement that an institution maintain Federal Pell Grant funds in an interest-bearing bank account. (Section 668.163(c) (3) (iii). See page 73.)

(4) the excess-cash rules (Section 668.166(a) (2). See page 86.)

Using this payment method, schools will have only a nominal amount of excess cash created by minor period adjustments. Since the Department will modify new requests for funds after deducting any adjustments reported by the school, large amounts of excess cash should not occur.

For pilot participants, this regulatory relief does not extend to SFA programs other than the Pell Grant Program.

The just-in-time payment method will enable the delivery system to provide the most current payment information to students and other system users, thereby reducing burden related to the reconciliation of payment data. This payment information will form the core of the individual student account that is the basis for the Project EASI integrated delivery system. By providing funds based on current student-level data, this payment method will strengthen the Department's ability to monitor the integrity of the SFA Programs by reducing the potential for the misuse of funds.

The Department's long-term goal is for all schools, except those using the reimbursement or cash-monitoring payment method, to participate in the Federal Pell Grant Program using the Just-In-Time payment method.

Maintaining and Accounting for
Funds Cite
34 CFR 668.163

GAPS

To facilitate implementation of the Education Central Automated Processing System (EDCAPS), section 668.162(a)(2) of the Student Assistance General Provisions regulations requires that each time a school requests funds from the Department, the school must identify the amount of funds requested by SFA Program using the program and fiscal year designation (grant award number) that the Department assigned to the authorized funds.



In May 1998, the Department converted to the Education Central Automated Processing System (EDCAPS). Within EDCAPS is the new Grants Administration and Payments System (GAPS), a state-of-the-art delivery system that supports Title IV award and payment administration. GAPS provides on-line capabilities to request payments, adjust drawdowns, and report expenditures from the Department. It also provides continuous access to current grant and payment information, such as authorization amounts, cumulative drawdowns, current award balances, and payment histories.

Schools that participate in SFA programs that require them to submit a payment request, such as Pell Grants or campus-based programs, use GAPS to request funds. Direct Loan funds can be drawn through the GAPS system. GAPS can be accessed through the Internet at the GAPS web page: <http://gapsweb.ed.gov>. The GAPS web page also provides in-depth information on the GAPS system as well as training information for the payment request process, including the GAPS Payee's Guide (<http://gapsweb.ed.gov/training>). The GAPS Payee Hotline number is 1-888-336-8930.

MAINTAINING AND ACCOUNTING FOR FUNDS

All schools must maintain a bank account into which the Department transfers, or the school deposits, SFA Program funds. The account must be federally insured or secured by collateral of value reasonably equivalent to the amount of SFA Program funds in the account. A school is not required to maintain a separate account for SFA Program funds unless the Department specifies otherwise.

A school is not required to maintain a separate bank account for FFEL Program funds that the school receives from a lender by EFT. A school must maintain and account for FFEL Program funds in the same manner required for other SFA Program funds.

Bank Account Notification Requirements

For each account that contains SFA Program funds, a school must identify that SFA Program funds are maintained in the account by

- including the phrase "federal funds" in the name of the account, or
- notifying the bank or investment company of the accounts that contain SFA Program funds and keeping a copy of this notice in its records *and*, except for public institutions, filing an UCC-1

statement with the appropriate state or municipal government entity that discloses that an account contains federal funds.

The school must keep a copy of the UCC-1 statement in its records.

The requirement that a school file a UCC-1 statement when an account's name does not include the phrase "federal funds" was established to reduce the possibility that a school could misrepresent federal funds as its own funds to obtain a loan or secure credit. Because public institutions generally do not seek to obtain credit in the same manner as private institutions, they are exempt from the requirement.

The Department may require a school to maintain SFA Program funds in a separate account that contains only SFA Program funds if the Department determines that the school failed to comply with cash management requirements, recordkeeping and reporting requirements, or other applicable program regulations.

Interest-bearing or Investment Account

Except in the instances discussed below, the account that Direct Loan, Pell Grant, FSEOG, and FWS program funds are deposited in must be an interest-bearing account or an investment account. An investment account must consist predominately of low-risk income-producing securities. If a school chooses to maintain federal funds in an investment account, the school must maintain sufficient liquidity in that account to make required disbursements to students.

Any interest earned on Direct Loan, Pell Grant, FSEOG, and FWS program funds maintained in an interest-bearing account or an investment account that exceeds \$250 per year, must be remitted to the Department at least once a year. A school may keep up to \$250 per year of the interest or investment revenue earned (other than that earned on Perkins Loan funds) to pay for the administrative expense of maintaining an interest-bearing account. However, a school must keep any interest earned on Perkins Loan funds for transfer to the Perkins Loan Fund.

Exceptions

A school is not required to maintain Direct Loan, Pell Grant, FSEOG, and FWS program funds in a interest-bearing account or an investment account for an award year if

- the school drew down less than \$3 million from these funds in the prior award year and anticipates that it will not draw down more than \$3 million in the current award year,
- the school can demonstrate that it would not earn over \$250 in interest on the funds it will draw down during the award year, or
- the school requests these funds under the just-in-time payment method.

Disbursing Funds Cite
34 CFR 668.164

Schools that request funds under the just-in-time payment method are exempt because this method would ensure the expeditious accounting and disbursement of program funds. Therefore, little or no interest would be earned on funds provided to the school.

Federal Perkins Loan Program Participants

A school that participates in the Perkins Loan Program must always maintain an interest-bearing account or an investment account for Perkins Loan funds. If a school is also required to maintain an interest-bearing account or investment account for other federal funds, the school may use one account for Perkins Loan funds and all other federal funds. However, if the school chooses to maintain one account, it must determine the exact amount of any interest earned on the Perkins Loan funds for transfer to the Perkins Loan Fund.

Accounting and Financial Requirements

If a school is not required and does not choose to maintain separate accounts, it must maintain accounting and internal control systems that

- identify the balance of the funds of each SFA Program that are included in the school's bank or investment account as readily as if those funds were in a separate account, and
- identify earnings on SFA Program funds in the school's bank or investment account.

A school must maintain its financial records in accordance with the recordkeeping requirements of 34 CFR 668.24 (see Chapter 8).

DISBURSING FUNDS

These disbursement requirements apply to all the SFA Programs specified at the beginning of this chapter, except for the FWS Program. A school must follow the disbursement procedures in 34 CFR 675.16 for paying a student his or her wages under the FWS Program (see the *SFA Handbook: Campus-Based Programs Reference*).

Definition of Disbursed

SFA Program funds are disbursed when a school credits a student's account with the funds or pays a student or parent directly with

- SFA Program funds received from the Department,
- FFEL funds received from a lender, or
- institutional funds labeled as SFA Program funds in advance of receiving actual SFA Program funds (except in the instances noted below).

It is important to distinguish when SFA Program funds have been disbursed for a number of reasons. To begin with, once SFA Program funds have been disbursed, a student becomes an SFA recipient and

the rights and responsibilities of an SFA recipient are in effect. For example, if the student is an SFA loan recipient, he or she assumes responsibility for the loan (and all interest accruing on the loan if it is unsubsidized), and has the right to cancel the loan. In addition, knowing when an SFA disbursement occurs will allow a school to determine when it must comply with regulatory requirements related to disbursements and other cash management issues.

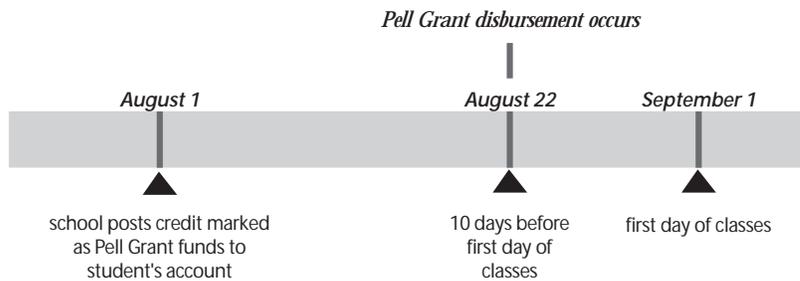
This definition of “disbursed” makes clear that any funds labeled as SFA Program funds *are* SFA Program funds.

Exceptions

However, because of other SFA Program requirements, there are two instances when crediting institutional funds labeled as SFA Program funds to a student’s account in advance of receiving the actual SFA Program funds will not result immediately in an SFA disbursement:

- If a school credits a student’s account with the institutional funds in advance of receiving SFA Program funds earlier than 10 days before the first day of classes of a payment period, the SFA disbursement occurs on the tenth day before the first day of classes. See the example below. (This provision corresponds to the early disbursement requirements. See page 78.)

Advance Credit to Account Example



- For a student whose loan funds are subject to the 30-day disbursement delay, if a school credits the student’s account with institutional funds in advance of receiving SFA Program funds earlier than 30 days after the first day of the payment period, the SFA loan disbursement occurs on the 30th day after the beginning of the payment period.

In addition, if a school simply makes a memo entry for billing purposes or credits a student’s account and does not identify it as an SFA credit (for example, an “estimated Federal Pell Grant”) the disbursement does not occur until the posting is subsequently converted to an actual credit. If the posting is never converted to an actual credit, it never becomes an SFA Program disbursement.

Current charges:

Charges assessed the student by the school for the current award year or the loan period for which the school certified or originated a FFEL or Direct Loan.

Disbursement by Crediting a Student's Account

When a school disburses SFA Program funds to a student by crediting a student's account, it may only do so for allowable charges. Funds in excess of the allowable charges must be paid directly to the student, unless otherwise authorized by the student. (An exception for the payment of prior year charges is discussed on page 82.)

Allowable Charges

Allowable charges are

- current charges for tuition and fees (as defined in section 472 of the Higher Education Act of 1965, as amended [HEA]), room and board (if the student contracts with the school), and
- other current charges that a student incurs for educationally related activities, if the school obtains the student's or parent's authorization to have such charges credited with SFA Program funds.

In other words, if a charge does not meet the definition of tuition and fees in Section 472 of the HEA (with the exception of contracted room and board charges), the school must obtain the student's permission (or parent's, if applicable) to credit the student's account with SFA Program funds for the charges.

Disbursing SFA Funds Directly

In addition to crediting a student's account, SFA Program funds may be disbursed directly to a student or parent. A school may disburse funds "directly" by one of four methods:

- releasing a check provided to the school by a FFEL Program lender to the student or parent;
- issuing a check or other instrument payable to and requiring the endorsement or certification of the student or parent. (A check is issued if the school releases or mails the check to a student or parent, or notifies the student or parent that the check is available for immediate pickup.);
- initiating an electronic funds transfer (EFT) to a bank account designated by the student or parent; and
- paying the student in cash, provided that the school obtains a signed receipt from the student or parent.

A parent borrower of PLUS Loan funds may authorize the school to transfer PLUS Loan funds to a bank account in the student's name.

Note that the law requires a school that disburses Direct Loans to student accounts to first use Direct Loan funds to pay for outstanding allowable charges. This does not mean that Direct Loan funds must be credited to a student's account prior to other funds. The law simply requires that if there is any outstanding balance for current or

authorized charges on the student's account when Direct Loan funds are disbursed, the Direct Loan funds must be applied to those outstanding charges before any Direct Loan funds may be disbursed directly to the borrower.

Disbursement by Payment Period
Cite

34 CFR 668.164(b)

DISBURSEMENT BY PAYMENT PERIOD

Schools must disburse all SFA Program funds (except FWS) on a payment period basis (for more information on the definition of a payment period, see Chapter 2). However, disbursement requirements vary by program. For information on the specific effects of the payment period disbursement requirement on disbursement of funds under a particular SFA Program, please see the applicable Handbook chapter.

Exemptions to Multiple Disbursement Requirements

Sec. 428G(a)

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments) provide exemptions, under certain circumstances, to schools with low default rates from multiple disbursement requirements and the 30-day delay requirements. For more information, see the *SFA Handbook: Direct Loan and FFEL Program Reference*.

Amendments
of 1998

Unless a student is eligible to receive a late disbursement of SFA Program funds, a school may disburse SFA Program funds to a student or parent for a payment period only if the student is enrolled for classes for that payment period and is eligible to receive those funds.

Excused Absences

An excused absence (an absence that does not have to be made up) may be counted as a completed clock hour under certain circumstances. For a student enrolled in a program measured in clock hours, the school may include clock hours for which the student has an excused absence in determining whether the student completes the clock hours in the payment period if

- the school has a written policy that permits excused absences, and
- for SFA purposes, the number of excused absences under the policy does not exceed the lesser of
 - Δ the policy on excused absences of the school's designated accrediting agency,
 - Δ the policy on excused absences of any state agency that legally authorizes the school to operate, or
 - Δ 10% of the clock hours in the payment period.

An excused absence may only be counted if the student is excused from hours that were actually scheduled, missed, and not to be made up.

Early Disbursements Cite
34 CFR 668.164(f)

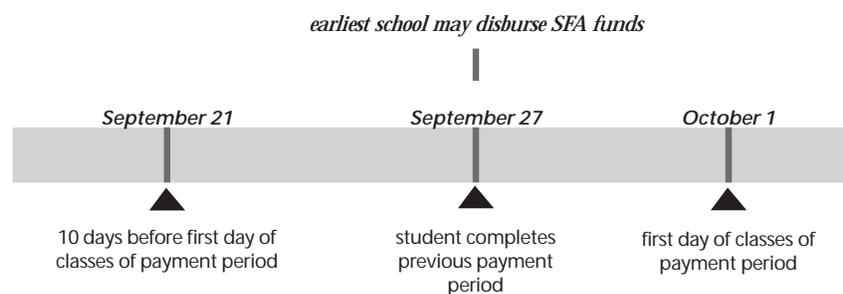
Late Disbursements Cite
34 CFR 668.164(g)

EARLY DISBURSEMENTS

The earliest a school may disburse SFA Program funds is

- for a student enrolled in a credit-hour program offered in semester, trimester, or quarter academic terms, 10 days before the first day of classes for a payment period.
- for a student enrolled in a clock hour program or a credit-hour program that is not offered in semester, trimester, or quarter academic terms, the later of 10 days before the first day of classes for the payment period, or the date the student completed the previous payment period for which he or she received SFA Program funds (see the example below).

Early Disbursement Example



This provision generally applies only to the first disbursement of an FFEL or Direct Loan. (This requirement is applicable to any payment period beginning on or after July 1, 1997.)

Note that if a student is in the first year of an undergraduate program and is a first-time borrower under the FFEL or Direct Loan program, a school may not disburse the first installment of his or her loan until 30 days after the student's first day of classes.

LATE DISBURSEMENTS

A student who withdraws or otherwise ceases attendance has lost SFA eligibility and generally may not be paid further funds for the enrollment period. However, a late disbursement of SFA Program funds may be made to an ineligible student if the student became ineligible only because

- for purposes of the Direct Loan and FFEL programs, the student is no longer enrolled at the school as at least a half-time student for the loan period, and
- for purposes of the Pell Grant, FSEOG, and Perkins Loan programs, the student is no longer enrolled at the school for the award year.

In addition, other conditions must be met depending on the SFA Program from which the late disbursement is to be made. The following chart lists these conditions:

Late Disbursements			
<i>Program</i>	<i>A late disbursement may be made if, before the date the student becomes ineligible...</i>		
<i>Direct Loans*</i>	SAR or ISIR with official EFC is received (all programs)	electronic origination record is created	For a first-year, first-time borrower, student completed first 30 days of program
<i>FFEL Loans*</i>		loan application is certified	
<i>Pell</i>		Valid SAR or ISIR is received	
<i>SEOG</i>		Student is awarded grant	
<i>Perkins</i>		Student is awarded loan	

**A school may not make a late second or subsequent disbursement of a Direct Subsidized or Direct Unsubsidized loan, or a FFEL Stafford Loan, unless the student has graduated or successfully completed the period of enrollment for which the loan was intended.*

A school may make the late disbursement only if the funds are used to pay for unpaid educational costs that the school determines the student incurred for the period in which the student was enrolled and eligible. A school is not required to obtain detailed expenditure documentation from the student. Instead, the school may develop a policy that it applies in all cases. For example, a school may adopt a policy that all expenses for books and supplies are considered to have been incurred by a student who withdraws after the first two weeks of the term (provided that this policy does not conflict with any applicable refund requirements).

The school must make the late disbursement to the student no later than 90 days after the date that the student becomes ineligible. For a FFEL, this means that the funds would have to be disbursed to the school by the lender to provide sufficient time for the school to disburse the funds to the student within 90 days.

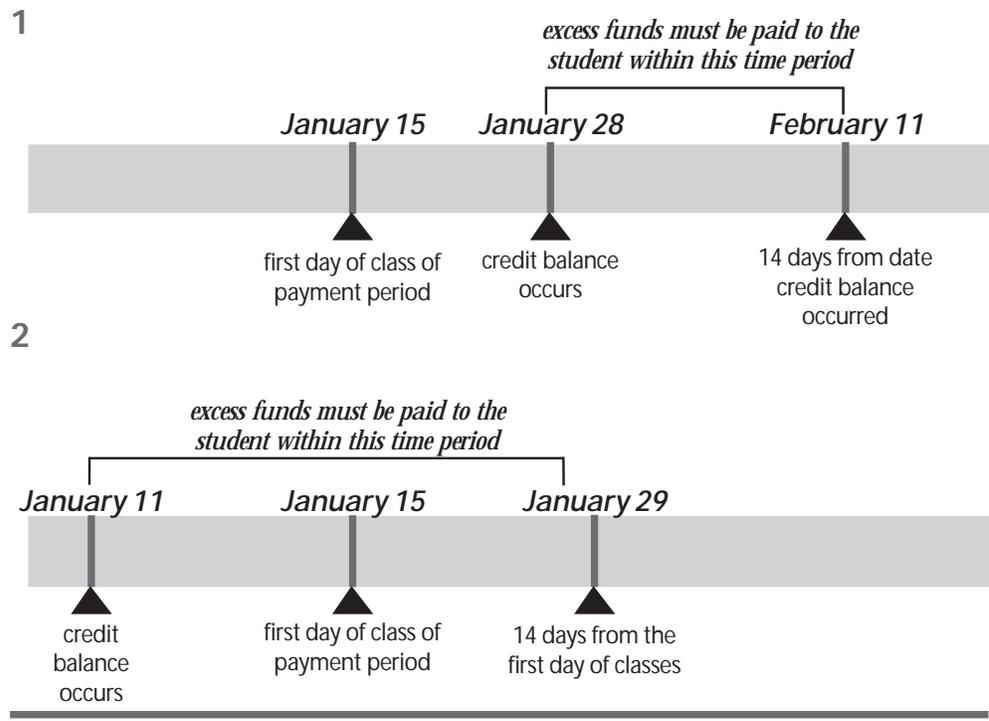
Credit Balances Cite
34 CFR 668.164(e)

SFA CREDIT BALANCES

Whenever a school credits SFA Program funds to a student's account, and those funds exceed the student's allowable charges, an SFA credit balance occurs. A school must pay the excess SFA Program funds (the credit balance) directly to the student as soon as possible, but no later than 14 days after the later of

- the date the balance occurred on the student's account, if the balance occurred after the first day of class of a payment period (see Example 1 below), or
- the first day of classes of the payment period if the credit balance occurred on or before the first day of class of that payment period (see Example 2 below).

Payment of a Credit Balance Example



CLARIFICATION

Note that an SFA credit balance occurs only if the total amount of SFA Program funds exceeds allowable charges. For example, if a student's total allowable charges are \$1500, and credits to the student's account comprise \$1000 in FSEOG, \$500 in state aid funds, and \$500 in Pell Grant funds, although there is an excess of \$500 on the account, an SFA credit balance would not exist. This is because the total amount of SFA Program funds (\$1500) does not by itself exceed the amount of allowable charges (\$1500). If, in the example above, the amount of Pell Grant funds credited to the student's account was \$600, rather than \$500, an SFA credit balance of \$100 would exist. One hundred dollars is the amount by which the total SFA Program funds credited to the account (\$1600) would exceed the allowable charges (\$1500). The order in which these funds were credited does not matter.

Note that the law requires that any excess PLUS Loan funds be returned to the parent. Therefore, if a school determines that PLUS Loan funds created a credit balance, the credit balance would have to be given to the parent. At this time, the Department does not specify how a school must determine which SFA Program funds create an SFA credit balance.

The Department does not address the treatment of credit balances that are created by non-SFA Program funds. However, under the SFA refund requirements, when a student withdraws, all credit balances must be eliminated before a refund calculation is performed. For information on the treatment of a credit balance when a student withdraws, see Chapter 6.

Holding Credit Balances

A school is permitted to hold excess funds (credit balances) if it obtains a voluntary authorization from the student or parent. If a school receives authorization to hold excess funds, the school must identify the student or parent and the amount of funds the school holds for the student or parent in a subsidiary ledger account designated for that purpose. The school must maintain, at all times, cash in its bank account at least equal to the amount the school holds for students. Because SFA Program funds are awarded to students to pay current year charges, notwithstanding any authorization obtained by a school from a student or parent, the school must pay

- any remaining balance on loan funds by the end of the loan period, and
- any other remaining SFA Program funds by the end of the last payment period in the award year for which they were awarded.

If a school cannot locate a student to which an SFA credit balance must be paid (i.e., the school has exhausted all possible avenues to find the student), the school must return the credit balance to the Department. In this case, a school will have to determine which SFA Program funds created a credit balance before it can return funds to the SFA Programs. As mentioned previously, the Department does not specify how a school must determine which SFA funds create a credit balance. However, the Department encourages schools to return SFA Program funds to loan programs first to reduce the likelihood of default.

CLARIFICATION

The school is permitted to retain any interest earned on the student's credit balance funds. The Department may prohibit a school that has been placed on reimbursement from holding excess funds. If the Department determines that the school has failed to meet the financial responsibility standards, a limitation may be placed on the school preventing it from holding excess funds for any student.

Prior-year Charges Cite
34 CFR 668.164(d)

Required School Notifications
Cites
34 CFR 668.165

PRIOR-YEAR CHARGES

In general, SFA Program funds are allowed to be used to pay only for educational expenses a student incurs in the period for which those funds are provided. However, a school is permitted to use a student's SFA Program funds to pay minor prior-year institutional charges if the student has, or will have, an SFA credit balance, and the school obtains the student's or parent's authorization to pay the prior-year charges.

A school may obtain authorization from a student in advance to use SFA Program funds to cover prior-year charges that are less than \$100. To pay prior-year charges for amounts equal to or greater than \$100, in addition to obtaining an authorization, a school must determine that payment would not prevent the student from paying for his or her current educational expenses.

REQUIRED SCHOOL NOTIFICATIONS

Before a school disburses SFA Program funds for any award year, the school must notify a student of the amount of SFA Program funds the student and his or her parent can expect to receive from each SFA 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.

A school must provide the best information it has regarding the amount of SFA Program funds a student can expect to receive. Because the actual loan disbursements received by a student may differ slightly from the amount expected by the school (due to loan fees and rounding differences), a school may include the gross amount of the loan disbursement or a close approximation of the net disbursement amount.

Opportunity for Loan Cancellation

Because incurring a loan obligation is a serious responsibility, a borrower must be given the opportunity to cancel the loan at or close to the time the funds are actually disbursed and the debt incurred. Notification of when a loan disbursement occurs is required to remind borrowers of their loan obligation and to give students the opportunity to replace credited loan proceeds with other funds. Therefore, the school must notify a student or parent in writing or electronically whenever the school credits the student's account with Direct Loan, FFEL, or Perkins Loan program funds. The notification must include

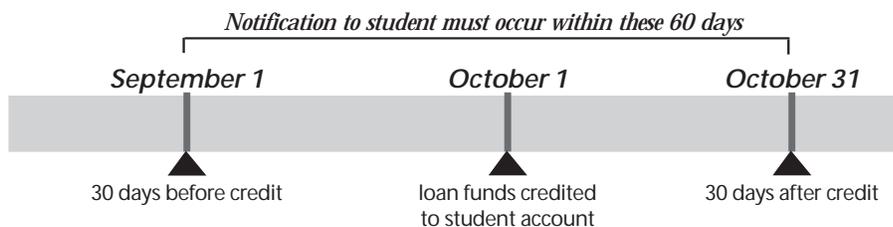
- the date and amount of the disbursement;
- the right of the student or parent borrower to cancel all or a portion of the loan. (This is applicable to FFEL Program funds only if the school received the loan funds from a lender through EFT payment or master check.); and

- the procedures and the time by which the student or parent borrower must notify the school that he or she wishes to cancel the loan or a portion of the loan.

A school is not required to provide notification of cancellation rights if the school disburses a FFEL directly to the student or parent by check. This is because a student or parent who receives a FFEL disbursement via check has the opportunity to refuse the funds by not endorsing the check or by returning the check.

This notification of crediting a student’s account with loan funds must be sent no earlier than 30 days before and no later than 30 days after crediting the student’s account (see example below). If a school notifies a borrower electronically, it must request that the borrower confirm the receipt of the notice and the school must maintain a copy of that confirmation. For example, if a school notifies a borrower through electronic mail, the school must request a “return receipt” message and keep a copy of the receipt on file.

Notification When Credit to Account Example



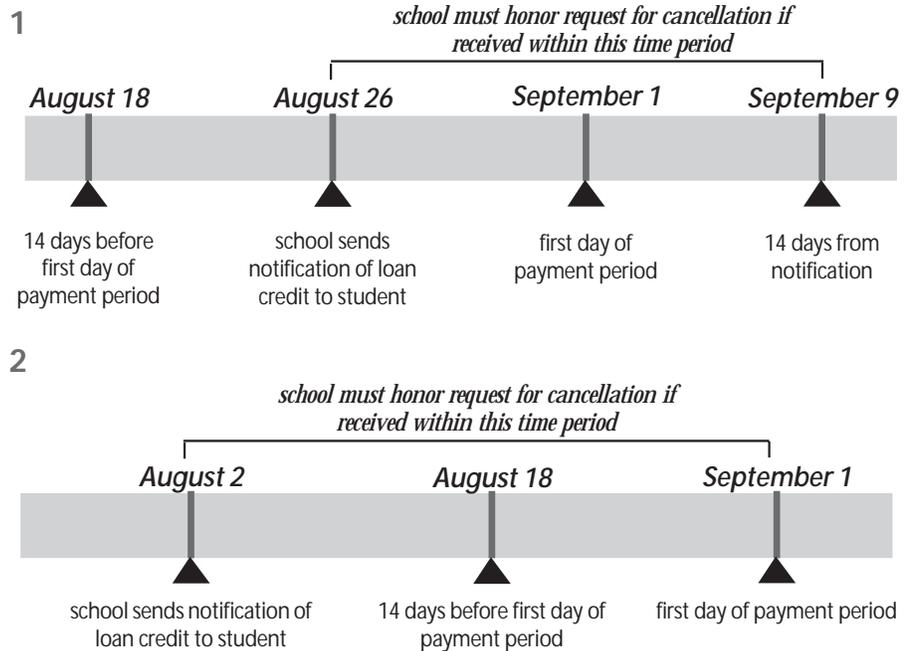
A school may not use an in-person or telephonic conversation as the sole means of notification. In-person and telephonic conversations are not adequate and verifiable methods of providing notice. However, notification to borrowers in-person and by telephone may be done in addition to providing written or electronic notice.

Once the school has provided notification, if the student or parent wishes to cancel all or a portion of a loan, he or she must inform the school. The school must honor the request if the request is received no later than

- 14 days after the date the school sends the notice (see example 1 on the next page), or
- the first day of the payment period, if the school sends the notice more than 14 days before the first day of the payment period (see example 2 on the next page).

Required Student Authorizations Cite
34 CFR 668.165

14 Day Cancellation Period Example



If a student's or parent's request for cancellation is received within the specified time period, the school must return the loan proceeds and/or cancel the loan as appropriate. If a student's or parent's request for cancellation is received after the specified time period, the school may, but is not required to, honor the request. Regardless of when the request is received, the school must inform the student or parent, in writing or electronically, of the outcome of the request.

A school is not responsible for returning a portion of a loan that was disbursed to a student or parent directly before the request for cancellation was received. However, a school is encouraged to take an active role in advising the borrower to return the portion of funds already received.

REQUIRED STUDENT AUTHORIZATIONS

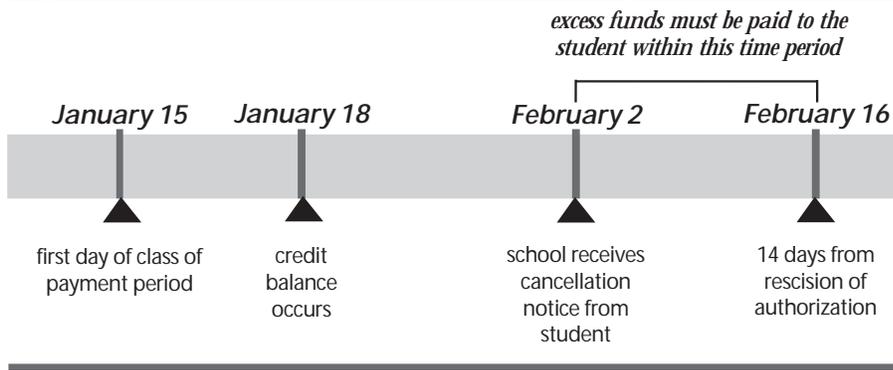
As discussed previously in this chapter, a school must obtain authorization from a student (or parent borrower) before

- disbursing SFA Program funds by EFT to a bank account designated by the student or parent,
- using SFA Program funds to pay for allowable charges other than tuition, fees and room and board (if the student contracts with the school),
- holding excess SFA Program funds (credit balances), and
- applying SFA Program funds to prior-year charges.

In obtaining an authorization from a student or parent, a school may not require or coerce the authorization and must notify the student or parent that he or she may cancel or modify the authorization at any time. Once a student or parent cancels or modifies his or her authorization, the school may not perform the function, or must perform the function as modified, from that date forward.

A cancellation or modification is not retroactive. If a student or parent cancels an authorization to use SFA Program funds to pay for allowable charges other than tuition, fees, and room and board (if the student contracts with the school), or prior-year charges, the school may use SFA Program funds to pay any authorized charges incurred by the student before the notice was received by the school. If a student or parent cancels an authorization to hold excess funds, the funds must be paid directly to the student or parent as soon as possible, but no later than 14 days after the school receives the notice (see example below).

Payment After Cancel Authorization Example



A school may include two or more of the items that require authorization on one statement. However, a student (or parent borrower) must be informed that he or she may refuse to authorize any individual item on the statement.

Any authorization must clearly explain how the school will carry out an activity. It does not need to detail every aspect pertaining to the activity; however, a blanket authorization that only identifies the activities to be performed is not acceptable. For example, an authorization permitting a school to use excess SFA Program funds must provide detail that is sufficient to give the student (or parent) a general idea of what the excess funds would be used to pay. A blanket statement that excess funds would cover any charges is not acceptable.

Unless otherwise specified, a student or parent may authorize a school to carry out the activities for which authorization is provided for the entire period during which the student is enrolled at the school. As mentioned above, a student or parent may cancel or modify an authorization at any time.

Excess Cash Cite
34 CFR 668.166

EXCESS CASH

As mentioned in the discussion of the advanced payment method, a school must disburse requested funds no later than three business days following the date the school receives the funds. "Excess cash" is any amount of SFA Program funds, other than funds received under the just-in-time payment method (see page 70), that a school does not disburse to students by the end of the third business day. Excess cash must be returned to the Department immediately. However, sometimes a school is prevented from disbursing funds in the required three days because of circumstances outside the school's control. For example, a school may not have been able to disburse funds because of a change in a student's enrollment status, a student's failure to attend classes as scheduled, or a change in a student's award as a result of verification. To take these circumstances into account, under the following circumstances, a school may maintain an excess cash balance for up to seven additional days.

Allowable Excess Cash Tolerances

For a period of peak enrollment (see below) at the school during which a drawdown of excess cash occurs, the school can maintain the excess cash balance in its federal account if the excess cash balance is less than 3% of the school's total prior-year drawdowns. The school is required to eliminate the excess cash balance within the next seven days by disbursing SFA Program funds to students for at least the amount of that excess cash balance.

A period of peak enrollment at a school occurs when at least 25% of the school's students start classes during a given 30-day period. A school determines this percentage for an award year with the following fraction:

$$\frac{\text{Number of students who started classes in the comparable 30-day period in the prior award year}}{\text{Total number of students who started classes during the entire prior award year}}$$

For any period other than a period of peak enrollment, the school can maintain the excess cash balance if the excess cash balance is less than 1% of the school's prior-year drawdowns. In this case also, the school is required to eliminate the excess cash balance within the next seven days by disbursing SFA Program funds to students for at least the amount of that balance.

If a school that is participating in the Direct Loan Program does not have prior-year drawdown data for the Direct Loan Program because it did not participate in the Direct Loan Program for that prior award year, the school may include the total amount of loans guaranteed under the FFEL Program for students attending the school during that year in determining total prior-year drawdowns.

The Department reviews schools to determine where excess cash balances have been improperly maintained and to seek recovery from those schools of the resulting losses to the government.

Upon a finding that a school has maintained an excess cash balance in excess of allowable tolerances, a school is required to reimburse the Department for the costs that the government incurred in making those excess funds available to the school. In addition, where excess cash balances are disproportionately large to the size of the school or represent a continuing problem with the school's responsibility to administer efficiently the SFA Programs, the Department may initiate a proceeding to fine, limit, suspend, or terminate the school's participation in one or more of the SFA Programs. (For more on fines and other actions against schools, see Chapter 11.)

Generally, a check is "issued" when the school releases, distributes, or makes available the check by mailing the check to the student or parent (if applicable), or by notifying the student or parent expeditiously that the check is available for immediate pickup. However, upon a finding that a school has maintained excess cash balances, the Department considers the school to have issued a check on the date that check cleared the school's bank account, unless the school demonstrates to the satisfaction of the Department that it issued the check to the student shortly after the school wrote that check.

Finally, the Department will assess a school that maintains excess cash balances a liability that is equal to the difference between the earnings those cash balances would have yielded under a Treasury-derived rate and the actual interest earned on those cash balances.

ADMINISTRATIVE COST ALLOWANCE

The Pell Grant Program

The Department pays an administrative cost allowance (ACA) to schools to offset some of the administrative costs related to the Pell Grant and campus-based programs. As defined in the regulations, the Pell Grant Program ACA is \$5 for each Pell Grant recipient at the school (calculated by the Department, based on the number of Pell Grant recipients reported by the school). Schools are notified of their Pell Grant ACA by mail three times during the processing year. The Pell Grant allowance is paid directly to the school from the Federal Reserve. (For more information, see the *SFA Handbook: Pell Grant Reference*.)

Campus-based Allowance

A school calculates its own campus-based program ACA in its annual Fiscal Operations Report and Application to Participate (FISAP), based on a percentage of its campus-based expenditures in

the previous award year (see *SFA Handbook: Campus-Based Programs Reference*). Unlike the Pell Grant ACA procedures, the school must draw down the campus-based ACA from its program allocation using the ED Payment System. (A school may use up to 10% of the FWS-based ACA for expenses incurred for its community service program.)

Withdrawals (Refunds)

This chapter explains how SFA Program funds are handled when a recipient of SFA Program funds withdraws from school.

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) changed substantially the way funds paid toward a student's education are to be handled when a recipient of SFA Program funds withdraws from school. Schools are not required to implement these new provisions until October 7, 2000. However, a school may choose to implement the new provisions prior to that date. Therefore, this chapter provides information for both the current requirements (those in effect for all schools prior to the Amendments of 1998) and the new requirements (those in the Amendments of 1998) for the treatment of funds when a student withdraws.

Withdrawal Cites

Sec. 484B, 485(a)(1)(F), 34 CFR 668.22

Amendments
of 1998

THE AMENDMENTS OF 1998

Major Changes

The current provisions require all schools participating in the SFA Programs to use specific refund policies when a student who receives SFA Program funds ceases attendance. In addition, the current provisions specify an order of return of unearned funds from all sources of aid, not just the SFA Programs.

Amendments
of 1998

The new requirements do not prescribe the use of any refund policy. Instead, a statutory schedule is used to determine the amount of *SFA Program funds* a student has earned when he or she ceases attendance based on the period the student was in attendance. As a result, the order of return of unearned funds no longer includes funds from sources other than the SFA Programs.

Up through the 60% point in each payment period or period of enrollment, a pro rata schedule is used to determine how much SFA Program funds the student has earned at the time of withdrawal. After the 60% point in the payment period or period of enrollment, a student has earned 100% of the SFA Program funds.

The new requirements do not prohibit a school from developing or complying with refund policies that determine the amount of institutional costs that a school has earned when a student withdraws.

Schools are still required to provide students with the details of the school's refund policy in addition to providing information on the SFA Program requirements for determining the amount of SFA Program funds a student has earned when he or she withdraws.

General Requirements

In general, the Amendments require that if a recipient of SFA Program assistance withdraws from a school during a payment period or a period of enrollment in which the recipient began attendance, the school must calculate the amount of SFA Program assistance the student did not earn and those funds must be returned.

Withdrawal Date

If a school is required to take attendance the withdrawal date is the date determined from the attendance records.

If a school is not required to take attendance, the withdrawal date is

- The date that student began the withdrawal process prescribed by the school;
- The date that student otherwise provided official notification to the school of the intent to withdraw; or
- If the student did not begin the withdrawal process or otherwise notify the school of the intent to withdraw, the midpoint of the payment period for which SFA Program assistance was disbursed or a later date documented by the school.

If the school determines that a student did not begin the withdrawal process or otherwise notify the school of the intent to withdraw due to illness, accident, grievous personal loss, or other circumstances beyond the student's control, the school may determine the appropriate withdrawal date.

Leave of Absence

A school may grant a student a leave of absence of up to 180 days in any 12-month period during which the student is not considered withdrawn and no refund calculation is required. The following conditions must be met:

- The school has a formal policy regarding leaves of absences;
- The student followed the school's policy in requesting the leave of absence; and

- The school approved the request in accordance with the school's policy.

If a student does not return to the school at the end of an approved leave of absence, the school is required to calculate the refund based on the date the student withdrew.

Calculation of Amount of SFA Program Assistance Earned

The amount of SFA Program assistance earned is the percentage of SFA Program assistance that has been earned multiplied by the total amount of SFA Program assistance that was disbursed (and that could have been disbursed) for the payment period or period of enrollment as of the day the student withdrew.

The percentage earned is one of the following:

- If the day the student withdrew occurs on or before the student completed 60 percent of the payment period or period of enrollment for which the assistance was awarded, the percentage earned is equal to the percentage of the payment period or period of enrollment for which assistance was awarded that was completed.
- If the day the student withdrew occurs after the student has completed 60 percent of the payment period or period of enrollment, the percentage earned is 100 percent.

The percentage and amount not earned is the complement of the percentage of SFA Program assistance earned multiplied by the total amount of SFA Program assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment, as of the day the student withdrew.

Percentage of the Payment Period or Period of Enrollment Completed

If a program is measured in credit hours, the percentage of the payment period or period of enrollment completed is the total number of calendar days in the payment period or period of enrollment for which the assistance is awarded divided into the number of calendar days completed in that period as of the day the student withdrew.

If the program is measured in clock hours, the percentage is the total number of clock hours in the payment period or period of enrollment for which assistance is awarded divided into the number of clock hours that are either—

- Completed by the student in that period as of the day the student withdraws; or
- If the clock hours completed in the period are not less than a percentage of the hours that were scheduled to be completed by the student in the period, the number of clock hours that are

scheduled to be completed by the student as of the day the student withdrew in the period. The percentage of the hours that were scheduled to be completed is to be determined by the Department in regulations.

Disposition of Differences between Amount Earned and Amount Received

If the student receives less SFA Program assistance than the amount earned, the school must comply with the procedures for late disbursement specified by the Department in regulations.

If the student receives more SFA Program assistance than the amount earned, the school, or the student, or both, must return the unearned funds as required, and in the order specified, below.

Return of Unearned SFA Program Funds

The school must return the lesser of—

- The amount of SFA Program funds that the student does not earn; or
- The amount of institutional costs that the student incurred for the payment period or period of enrollment multiplied by the percentage of funds that was not earned.

The student (or parent, if a Federal PLUS loan) must return or repay, as appropriate, the remaining unearned SFA Program grant and loan funds. However, a student is not required to return 50 percent of the grant assistance received by the student that it is the responsibility of the student to repay.

Method of Return of Funds by the Student

The student (or parent, if a Federal PLUS loan) must return the unearned funds for which they are responsible to loan programs in accordance with the terms of the loan, and to grant programs as an overpayment. Grant overpayments are subject to repayment arrangements satisfactory to the school, or overpayment collection procedures prescribed by the Secretary.

Order of Return of SFA Program Funds

Funds credited to outstanding loan balances for the payment period or period of enrollment for which a return of funds is required must be returned in the following order:

- Unsubsidized Federal Stafford loans.
- Subsidized Federal Stafford loans.
- Unsubsidized Direct Stafford loans (other than PLUS loans).
- Subsidized Direct Stafford loans.

- Perkins loans.
- Federal PLUS loans.
- Direct PLUS loans.

If funds remain after repaying all loan amounts, those remaining funds must be credited in the following order:

- Federal Pell Grants for the payment period for which a return of funds is required.
- Federal Supplemental Educational Opportunity Grants (FSEOG) for the payment period for which a return of funds is required.
- Other assistance under this Title for which a return of funds is required.

CONSUMER INFORMATION

The Amendments of 1998 require that every participating school provide to prospective and enrolled students a statement of the requirements

- of any refund policy with which the school must comply,
- for the return of SFA Program funds, and
- for officially withdrawing from the school.

CURRENT REFUND REQUIREMENTS

When the Requirements Apply

The SFA refund and repayment requirements apply when a student receives SFA Program funds and withdraws, drops out, takes an unapproved leave of absence, fails to return from an approved leave of absence, is expelled, or otherwise fails to complete the period of enrollment for which he or she was charged.

The SFA refund and repayment requirements do not apply to a student who

- withdraws, drops out, or is expelled before his or her first day of class (see 34 CFR 668.21, 685.303, and 682.604.)
- withdraws from some classes, but continues to be enrolled in other classes, or
- does not receive SFA Program funds for the period in question. (Students whose parents received a PLUS Loan are considered to have received SFA Program funds and so are covered by the SFA refund and repayment requirements.)

A student has “received” SFA Program funds if a disbursement of SFA Program funds has been made. An SFA disbursement occurs even when a school credits a student’s account with institutional funds labeled as SFA Program funds (for more information on SFA disbursements, see Chapter 5). If a student ceases attendance after the account is credited but before the SFA Program funds are actually drawn down, the student is an SFA recipient, and the SFA refund requirements apply. The school must draw down the SFA Program funds, perform any required refund calculations, and return any refund to the proper source. If, however, the entire refund will be returned to the same program from which the draw down will occur, the school may draw down the net amount of funds. For example, institutional funds in the amount of \$1000 are credited to a student’s account and labeled as Pell Grant funds, creating a Pell Grant disbursement. Before the school draws down the Pell Grant funds, the student withdraws. The Pell Grant is the student’s only source of SFA

Program funds. The refund due to the Pell Grant Program is \$500. The school may modify its draw down request to \$500 in Pell Grant funds.

Some schools may refer to a return of funds to the SFA Programs for students who do not attend at least one class or who withdraw from some (but not all) classes as a “refund” or “repayment.” Also, many schools refer to a “refund” as the direct disbursement to a student (after the school has credited the student’s account for institutional costs). But the terms “refunds” and “repayments,” as discussed in this chapter, have specific meanings.

Refund Situation



Student enrolls and pays school charges (tuition and fees, etc.).



Student withdraws from school; school gives refund to student.

A “refund” is the unearned amount of institutional charges that must be returned to the SFA Programs, other sources of aid, and the student, for a student who received SFA Program funds and who has ceased attending school after attending at least one class.

A refund is defined as the difference between the amount paid towards institutional costs (including financial aid and/or cash paid) and the amount the school may retain under the appropriate refund policy.

<i>Total Amount Paid</i>	\$668.22
- <i>Amount Retained</i>	
= REFUND AMOUNT <i>(amount unearned)</i>	

<i>Aid Disbursed as Cash</i>	\$668.22
- <i>Living Expenses Incurred</i>	
= REPAYMENT AMOUNT	

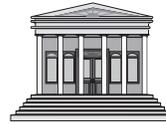
A “repayment” is the unearned amount of a direct disbursement to a student that the student (who received SFA Program funds and who has ceased attendance after attending at least one class) must pay back. (Usually, the school will use incoming aid to pay institutional costs and will disburse any remaining aid directly to the student.) If the school determines that the student received a direct disbursement in excess of the living expenses he or she could have

reasonably incurred while still enrolled, then a portion of the disbursement was not earned and must be repaid by the student to the SFA Programs.

Treatment of FWS, FFEL, and Direct Loan Funds

Two other important points: because wages under work-study programs are earned by the student and cannot be recovered, work-study funds are never considered in the refund and repayment process. (However, a recipient of Federal Work-Study funds is an SFA recipient so the SFA refund requirements apply.) Also, FFEL and Direct Loan funds are excluded in the repayment process because the student is already required to repay them to the lender. This is one reason that the school must have a way of determining which program funds were used to credit the student's account and which were paid to the student for living costs.

Repayment Situation



School makes cash disbursement to student at beginning of payment period.



Student withdraws from school; school determines amount of cash disbursement to be returned by student.

CONSUMER INFORMATION

A school is required to provide a written statement explaining its refund policies and procedures to prospective students prior to enrollment or prior to execution of an enrollment agreement (or other document that legally binds a student to pay the school), whichever is earlier. This information must also be provided in writing to currently enrolled students, and must include details on how refunds will be calculated and distributed, including an explanation of the various factors that will impact a student's refund (whether the student is a first-time student, what the state policy is, the concept of unpaid charges, etc.). If the school changes its refund policies or procedures at any time, it must provide this information to all current and prospective students. This information may be provided through a school catalog or included in a schedule of fees if these publications are distributed to all current students and prospective students at no charge. A school is not providing the information to all students if it is only including the information in a school newspaper or a flyer that is available on campus.

The school must make examples of common refund situations available, although it is not necessary to provide an example of every possible refund situation. The written statement must inform the student that these examples are available. Additionally, the school must provide a detailed explanation of the procedures a student must follow to receive a refund. Note, however, that an SFA school is required to comply with all SFA refund rules and regulations, regardless of whether students follow the school's required refund procedures or not.

Schools must also publish the student's costs for required supplies and equipment (including books). In addition, schools must substantiate to the Department, upon request, that those costs are reasonably related to the school's cost for those supplies.

FAIR AND EQUITABLE REFUND REQUIREMENT

Every participating SFA school must have a fair and equitable refund policy.

The Higher Education Amendments of 1992 define a "fair and equitable refund policy" as one that provides for a refund of at least the largest amount under

- applicable state law;
- specific refund requirements established by the school's nationally recognized accrediting agency, as approved by the Department; or
- the pro rata refund calculation defined in the Higher Education Amendments of 1992 if the student is attending the school for the first time, and withdrew on or before the 60% point of the period of enrollment for which the student has been charged. (Pro rata refunds are discussed later in this chapter.)

If none of the three options above applies to a particular student, the school must then calculate a refund according to the Federal Refund Policy found in the regulations. The school must compare the Federal Refund Policy refund with the refund amount under its own institutional refund policy (if any), and issue the larger of the two refunds. For each SFA student who does not complete the enrollment period for which they were charged, the school must calculate all applicable refunds to see which is the largest.

First-time Student

For those SFA students who are first-time students and who withdraw on or before the 60% point in time of the enrollment period for which they were charged, the school must calculate a statutory pro rata refund and compare this amount to the refund amount from the applicable state and accrediting agency policies (if any) to determine the largest available refund to the student. (For more details on pro rata requirements, see page 114.) If both the state and the accrediting agency policies do not exist or are not applicable, the student's refund is the pro rata refund amount.

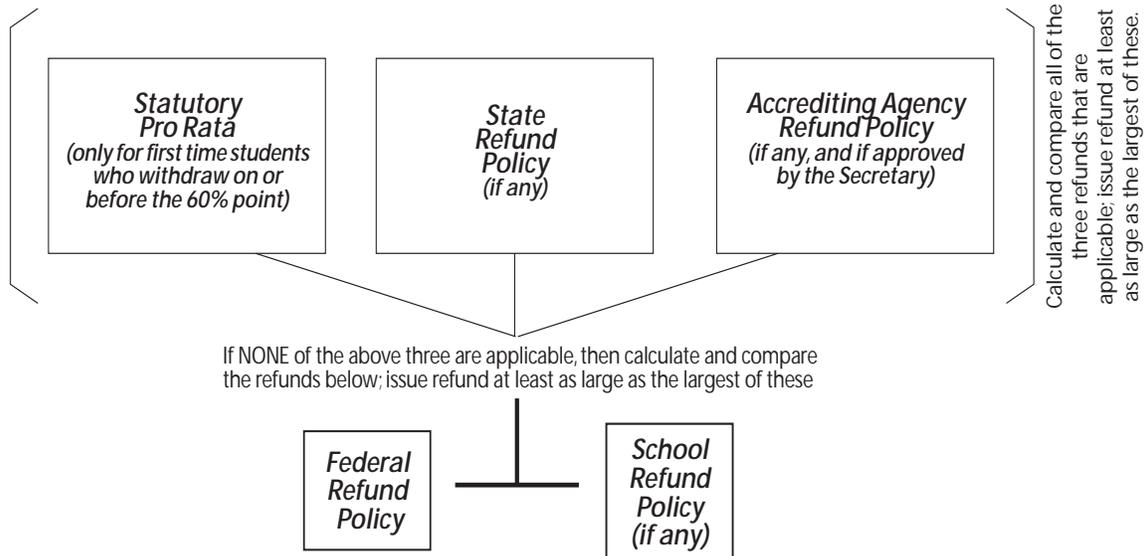
Continuing Student

If a student is a continuing student (not a first time student) who withdrew, or a first time student who withdrew after the 60% point of the enrollment period for which he or she is charged, the school must calculate the student's refund amounts using the applicable state and accrediting agency policies (if any), compare the resulting refunds, and use the calculation that provides the largest refund. If the state

and accrediting agency policies do not exist or are not applicable, the school must calculate the refund under the Federal Refund Policy and the school's policy (if any) and provide the largest refund.

The flowchart below illustrates the various required refund calculations and comparisons that may be required.

Fair and Equitable Refund Requirement



The Department must specifically approve an accrediting agency's refund policy before it may be used in the refund comparison. As this publication goes to print, no accrediting agency refund policies have been approved by the Department.

A state refund policy refers not only to laws enacted by the state's legislature, but also to refund regulations of a state agency, if the regulations were established through a legally enforceable regulatory process and carry the force and effect of law. If a school is using a policy as a state refund policy, the school must be able to refer to a state law or state regulation that establishes those refund requirements.

COMPARING TO DETERMINE THE LARGEST REFUND

Let's look at a sample refund situation. St. Mark's Academy (SMA) charges by the 10-week semester. Bob is a first-time student at SMA and received federal SFA Program funds. He withdraws in the third week ($3 \div 10 = 30\%$), so the statutory pro rata refund requirements apply. SMA must calculate the student's refund according to its state guidelines (if any), its accrediting agency guidelines (if approved by the Department), and the statutory pro rata requirements.

State Guidelines

SMA's state guidelines allow it to retain institutional costs proportional to the portion of the enrollment period completed by the student. Because Bob attended 30% of the semester, SMA may keep 30% of the institutional costs. (This modified pro rata refund is voluntary, not statutory [i.e., it is not required by federal law]—so it is nonpro rata and must be calculated according to the unpaid charges requirements. The refund regulations require that unpaid charges must be subtracted from the amount retained by SMA, but this issue was effected by litigation. For details on this topic, see page 110.)

Accrediting Agency Guidelines

SMA's accrediting agency refund policy is not approved by the Department. Therefore, calculation and comparison of the accrediting agency refund is not applicable.

Statutory Pro Rata Requirements.

The statutory pro rata rules require SMA to refund institutional costs proportional to the portion of the enrollment period for which the student has been charged that remains, rounded down to the nearest 10%. (Notice that the state policy dictated how much SMA is allowed to retain, but statutory pro rata requirements are written in terms of how much the school must return.) The portion of the enrollment period for which the student has been charged that remains is calculated according to statutory formula (discussed on page 116). Using that formula, SMA calculates that 70% of the enrollment period for which Bob has been charged remains. Accordingly, SMA must refund 70% of institutional costs under the statutory pro rata refund calculation and retains 30%.

Calculating and Comparing the Refunds

In determining which calculation provides the largest refund, it is not enough to simply compare the refund percentages dictated by each policy. The school must completely calculate each refund separately, and then compare the resulting amounts. Even though the state and pro rata refund policies provide for the same percentage refund, the school must perform both calculations and compare, because requirements specific to each policy may affect an individual's refund amount. Also, it is not safe to automatically assume that the statutory pro rata calculation provides the largest refund—that is not always the case.

In addition to the amounts the school is allowed to retain under each policy, SMA needs the following figures to calculate both refunds: (1) total institutional costs, (2) total amount paid to those charges, and (3) Bob's total unpaid charges.

(1) Bob's institutional costs for the semester total \$1,500.

(2) Bob received an \$850 Federal Pell Grant disbursement and a \$300 FSEOG payment; both are credited to cover institutional costs. Bob also made a \$200 cash payment. A total of \$1,350 was paid toward institutional costs ($\$850 + \$300 + \$200 = \$1,350$).

(3) Unpaid charges are calculated by subtracting the total amount paid to institutional costs from the total institutional costs. Bob's unpaid charges equal \$150 ($\$1,500 - \$1,350 = \150). (For a details on unpaid charges and the impact on a refund calculation, see page 109.)

The State Refund Calculation

The state refund policy allows SMA to keep 30% of its institutional costs ($\$1,500 \times .30 = \450). The unpaid charges (\$150) must be subtracted from the amount SMA could otherwise retain (\$450).

Thus, SMA is actually entitled to retain only \$300 ($\$450 - \$150 = \300). SMA then subtracts the amount retained (\$300) from the amount paid to institutional costs (\$1,350) to figure the refund ($\$1,350 - \$300 = \$1,050$). The refund under the state policy is \$1050.

The Statutory Pro Rata Refund Calculation

The statutory pro rata policy dictates that SMA's refund be proportional to the portion of the enrollment period for which the student has been charged that remains, rounded downward to the nearest 10%. As explained previously, 70% of the enrollment period for which Bob has been charged remains, so SMA must refund 70% of the institutional costs ($\$1,500 \times .70 = \$1,050$). The regulatory requirements regarding unpaid charges do not apply to a statutory pro rata calculation; rather, the statutory pro rata allows SMA to subtract Bob's unpaid charges (\$150) from his initial refund amount (\$1,050). Thus, the statutory pro rata refund would actually be \$900 ($\$1,050 - \$150 = \900).

After calculating all the applicable refunds, the school must use the calculation that provides the largest refund—in this case, it is the state calculation resulting in a refund of \$1,050. Of that amount, \$850 must be returned to the Pell Grant Program, and the remaining \$200 goes to the FSEOG account in accordance with the law and regulations. (For more on the required distribution of refunds and repayments, see page 120.)

Because SMA earned \$450 but received only \$300, SMA may bill the student for the \$150 of unpaid charges.

WITHDRAWAL DATE

A key component needed in order to determine if a refund of institutional costs is required is the date the student stopped attending classes and, therefore, was no longer receiving the instruction for which he or she was charged. This date is generally referred to as the withdrawal date. The withdrawal date is also critical in determining the amount of a student's refund. The General Provisions regulations define the withdrawal date as the earlier of

- the date that the student notifies a school of the student's withdrawal, or the date of withdrawal specified by the student, whichever is later, or

- if the student drops out of the school without notifying the school (does not withdraw officially), the last recorded date of class attendance by the student, as documented by the institution.

In all cases, whether or not the student notifies the school that he or she is withdrawing or has withdrawn, this definition is used to determine a student's withdrawal date by determining the student's last date of class attendance. In some cases, a school may use the last date of attendance as specified by the student; in others, the last date of attendance must be documented by the school. For example:

Scenario 1: For a student who never notifies the school that he or she has stopped attending classes, the withdrawal date is the student's last recorded date of attendance, as documented by the school.

Scenario 2: In those instances when the student informs the school that he or she will stop attending classes at a later date, the last date of attendance may be determined by using the date supplied by the student. If, however, the school has conflicting information and can document that the student attended beyond the date he or she specified, the last date of attendance is the date which the school documented was the student's last day of attendance.

Scenario 3: When a student stops attending classes and subsequently notifies the school that he or she withdrew, the withdrawal date is the last recorded date of class attendance by the student as documented by the school, except that the Department allows a school to use the last date of class attendance as specified by the student. The regulations address such cases by the use of the word "earlier" which acknowledges that two situations could exist for the same student during the same enrollment period. That is, a student who stopped attending classes without notifying the school may, at a later date, notify the school that he or she has withdrawn. The rule requires the school to establish the withdrawal date under both conditions and use the earlier date. Again, if the school has conflicting information and can document a date other than the date he or she specified, the last date of attendance is the date which the school documented was the student's last day of attendance.

CLARIFICATION

To aid schools in the determination of the time frames for the return of funds, the withdrawals described above are characterized here as official withdrawals or unofficial withdrawals (see "Time Frames For Return Of Funds" later in this chapter). For this purpose, a student is considered to have officially withdrawn if he or she notifies the school of his or her withdrawal during the period of enrollment for which the student has been charged. Therefore, Scenario 1 described above is an unofficial withdrawal, and Scenarios 2 and 3 are official withdrawals. A school is required to determine the withdrawal date for an unofficial withdrawal within 30 days of the end of the period of enrollment for which the student has been charged, the academic year, or the program, whichever is earliest.

For a student who is expelled from school or a student who fails to return from an approved leave of absence, (see the discussion on leave of absence on page 101) the withdrawal date is the last date of attendance, as documented by the school. If a student takes an unapproved leave of absence, the withdrawal date is the last date of attendance prior to the leave of absence, as documented by the school.

If a school uses the last date of attendance as provided by the student, and the school has reason to believe that the information provided by the student is inaccurate, it must resolve any conflicting information between the student's statement and its records.

Participating SFA schools are expected to monitor student attendance for the purpose of determining a withdrawal date in cases of unofficial withdrawal. The school must demonstrate that the student has remained in academic attendance through a specified point in time. The school's determination of the student's last day of attendance must be based on an event that the school routinely monitors and must be confirmed by an employee of the school. If these conditions are met, the following are acceptable forms of such documentation: exams, records of attendance, tutorials, computer-assisted instruction, counseling, academic advisement, or study groups.

For a correspondence program, the withdrawal date is normally the date of the last lesson submitted, if the student failed to submit the subsequent lesson on schedule.¹

APPROVED LEAVE OF ABSENCE

A student who takes an approved leave of absence is considered not to have withdrawn from the school. A leave of absence is approved if

- the student has made a written request for the leave of absence,
- the leave of absence does not exceed 60 days,
- the school has granted only one leave of absence to the student in any 12-month period, and
- the school does not charge the student for the leave of absence.

If a student's leave of absence is not approved or the student fails to return to the school at the end of an approved leave of absence, the student is considered to have withdrawn from the school, and the refund requirements apply.

These leave of absence requirements also affect a student's in-school status for the purposes of deferring SFA loans. A student on an approved leave of absence is considered to be enrolled at the school

1. If within 60 days of the last lesson submission, the student states in writing that he or she wishes to continue in the program and understands that subsequent lessons must be submitted on time, the school may restore the student to in-school status. Only one such restoration can be granted to a particular student.)

and would be eligible for an in-school deferment for his or her SFA loans. A student who takes an unapproved leave of absence or fails to return to the school at the end of an approved leave of absence is no longer enrolled at the school and is not eligible for an in-school deferment of his or her loans.

PERIOD OF ENROLLMENT FOR WHICH THE STUDENT HAS BEEN CHARGED

The refund and repayment amounts are also determined in part by the period of enrollment used in the calculation. The regulations require that a school use the actual period for which the student was charged, with the following minimums:

- For all term programs, use the semester, trimester, quarter, or other academic term.
- For all nonterm programs, for programs that are longer than or equal to the academic year, use the payment period or one-half of the academic year, whichever is greater; for programs that are shorter than the academic year, use the program length.

How the student is billed, such as on an installment or monthly payment plan, does not automatically determine how much the student was “charged.” The “period of enrollment for which the student was charged” is the period for which the student is contractually liable by having signed an enrollment agreement or similarly binding document.

If a school charges by different periods for different costs, all charged amounts should be converted to represent the longest period.

CLARIFICATION

DETERMINING INSTITUTIONAL AND NON-INSTITUTIONAL COSTS

A Policy Bulletin, published on the Information for Financial Aid Professionals web site on January 7, 1999, provides clarification of the definition of institutional costs.

The policy bulletin provides specific guidance on how to determine whether a charge is an institutional cost when calculating an institutional refund. That guidance is repeated here.

Institutional versus Non-Institutional Costs

When a student receives SFA Program funds to attend a school and subsequently withdraws, drops out, takes an unapproved leave of absence, fails to return from an approved leave of absence, is expelled, or otherwise fails to complete the period of enrollment for which he or she was charged, federal law and regulations require the school to make a timely refund of “unearned tuition, fees, room and board, and other charges” assessed the student by the institution. When a student withdraws, the school must also determine if the student owes a repayment of unearned funds that the school either disbursed to the

student directly or, with the student's permission, credited to the student's account to pay for "noninstitutional costs." Tuition, fees, room and board, and "other charges" have been collectively and historically referred to as "institutional costs." However, for the purposes of this guidance, "institutional costs" will hereafter be referred to as "institutional costs" to clarify that institutional and noninstitutional expenses are not defined by whether an actual charge has been made to a student's institutional account. As a general rule, institutional costs are defined as expenses that a school assesses a student for educational expenses that are paid to the school directly.

Since a repayment calculation involves only noninstitutional costs and a refund calculation includes only institutional costs, a critical step in calculating an accurate refund and/or repayment involves determining whether the costs are institutional or noninstitutional.

Common Misconceptions about Institutional Costs

The most frequently asked refund question the Department receives is: May this charge be considered a noninstitutional cost? In the process of defining what may be considered a noninstitutional cost, it seems some institutions have become confused about what constitutes an institutional cost. Therefore, note the following general refund principles about institutional costs.

Refund Principle 1: Most Costs Are Institutional

The most important principle to keep in mind is that current federal law and regulations provide that all tuition, fees, room and board, and other charges a school assesses a student are institutional costs, unless demonstrated otherwise. Thus, a school is never compelled by federal law and regulations to classify a charge as noninstitutional if it wishes to classify the charge as institutional. However, if a school wishes to exclude specific charges or costs from a refund calculation, it must demonstrate that the charges are either noninstitutional costs or are designated as excludable costs under the regulations. Noninstitutional and excludable costs are discussed under "General Guidelines for Defining Institutional Costs."

Refund Principle 2: An Institutional Cost Does Not Need To Be Assessed to all Students

Institutions sometimes mistakenly assume that a charge is not an institutional cost because it was not assessed to all students, or the charge was not included in the enrollment agreement. For example, the regulations in 34 CFR 668.22(c)(5)(i) and (d)(3)(i) provide general guidance that "other charges assessed the student by the school include, but are not limited to" all items issued by the school to the student when those charges are specified in the enrollment agreement as separate charges. However, it should be noted that the regulations recognize that other charges are not limited to items that are listed in the enrollment agreement. While a charge must be assessed to all students carrying the same academic workload to be considered an allowable cost of attendance, and SFA Program funds may only be used to pay allowable cost of attendance charges, it is not true that a charge must be assessed to all students, or be listed in an

enrollment agreement, to be considered an institutional cost for refund purposes.

Refund Principle 3: Institutional Costs May or May Not Be Charged to a Student's Account

Note the following points about institutional costs:

1. All charges to a student's account are not necessarily institutional costs.

With the student's permission, a school may credit a student's account with SFA Program funds to pay for noninstitutional costs. Consequently, if a student withdraws from the school with charges for noninstitutional costs on his or her account, the school must use those charges to determine if the student owes a repayment. Specific charges that may be classified as noninstitutional costs are defined in the discussion on "General Guidelines for Defining Institutional Costs."

2. Charges that do not appear on the student's institutional account may still be institutional costs.

For example, a student does not have to charge the purchase of required course materials to his or her institutional account for the course materials to be classified as "institutional costs." If a school disburses funds to a student to buy equipment that he or she is required to have by the first day of class, but the disbursement is so late that the student only has time to purchase the equipment at the school, those costs must be classified as institutional costs because the student does not have "a real and reasonable opportunity" to purchase the equipment from someplace other than the school.

General Guidelines for Defining Institutional Costs

The following educational expenses must be considered institutional costs:

- All charges for tuition, fees, and room and board (if contracted with the institution); and
- Expenses for required course materials, if the student does not have a "real and reasonable opportunity" to purchase the required course materials from any place but the institution.

Exceptions

The total amount of all institutional costs must be used in the calculation of a refund, including the calculation of unpaid charges, if they are specifically designated as excludable.

"Excludable" costs are defined as costs that the regulations permit a school to exclude from the total amount of institutional costs when calculating a refund, such as an administrative fee (34 CFR 668.22(c) (4) and (d) (2)), documented cost of unreturnable equipment, and the documented cost of returnable equipment, if not

returned in good condition within 20 days of withdrawal (34 CFR 668.22(c) (5) (ii) and (d) (3) (ii)).

Noninstitutional costs include:

- A charge for any required course materials that a school can document are noninstitutional because the student had “a real and reasonable opportunity” to purchase them elsewhere (See the discussion that follows.);
- A charge to the student’s account for room charges that are collected by the school but are “passed through” to an unaffiliated entity;
- A charge to student’s account for group health insurance fees, if the insurance is required for all students and the coverage remains in effect for the entire period for which the student was charged, despite the student’s withdrawal; or
- A charge to a student’s account for discretionary educationally related expenses (e.g., parking or library fines, the cost of athletic or concert tickets, etc.).

Demonstrating “Real and Reasonable Opportunity”

Final regulations published November 29, 1994, provided an exception to the refund rules to allow a school to treat certain charges as noninstitutional costs when the school can show that its students have the option of obtaining required course materials from the school or receiving payment of the funds from the school to purchase the items from alternative sources.

This exception was discussed in the preamble discussion to the November 29, 1994 regulations on page 61163:

If a school does not have a separate charge for equipment and the student has the option [emphasis added] of purchasing the equipment from more than one source, the school would not have to include the equipment charge in the pro rata calculation.

With regard to this exception, note that if an school wishes to classify the cost of required books, supplies, and equipment as noninstitutional costs, it must be able to substantiate that an option actually existed for its students. For example, the school must be able to demonstrate that: 1) the required course materials were available for purchase at a relatively convenient location unaffiliated with the school; and 2) the school did not restrict the availability of financial aid funds, so its students could exercise the option to purchase the required course materials from alternative sources.

A school would not be able to demonstrate that a student had a real and reasonable opportunity to purchase his or her required course materials from alternative sources if one of the following is true:

- The required course materials are not available elsewhere (i.e., they were only available at the institution), or they are not conveniently available for purchase from another vendor unaffiliated with the institution;
- When financial aid is available to the school for disbursement to the student, the school does not make those funds available to the student in time to purchase the required materials from another vendor before those materials are required for academic purposes;
- The institution's practices do not allow or discourage a student (e.g., the use of vouchers that are only good at the campus bookstore or the late disbursement of funds to students to pay for noninstitutional costs) from exercising his or her option to purchase the required course materials from another vendor; or
- The school has the student sign a statement saying that the student has the option to purchase course materials from someplace other than the school, but the school is unable to document that an option truly existed.

Excludable Institutional Costs

The regulations also allow institutions to exclude the following costs from pro rata and Federal refund calculations if the school's return policies are reasonable, consistent, and fair to all students, and students were notified, in writing, of the school's policies when they enrolled.

- An administrative fee (up to \$100 or 5% of the total institutional costs, whichever is less);
- The institution's documented cost for nonreturnable equipment; and
- The institution's documented cost of returnable equipment, if not returned in good condition within 20 days of withdrawal.

Note that the school is responsible for demonstrating that its policy on nonreturnable equipment is reasonable, consistent, and fair to students. For example, it is not reasonable or fair to students to classify all used books or equipment as nonreturnable. A school must be able to demonstrate that there are specific circumstances that would prevent the school from selling the books or equipment to other students. Also, if the institution's students are not notified in writing about the school's return policy when they enroll or the policy is not consistent with federal regulations on excludable costs, the school may not exclude the documented cost of books, supplies, and equipment from any refund calculations.

Applying the Rules: Is this an Institutional Cost?

To see how the guidelines for defining institutional costs can be applied, consider how a school would determine whether a charge for tools is noninstitutional or institutional. A student is required to purchase certain types of high quality tools for his program of study by the first day of class. The institution's enrollment agreement does not contain a charge for the tools, and it does not say that the student is required to purchase the tools from the school or a vendor affiliated with the school. The required tools are available for purchase from the school and from a retailer across the street from the school. As a routine practice, the school obtains permission to credit all financial aid to students' institutional accounts, and establishes a line of credit for students at the campus bookstore so they can purchase the required tools by the first day of class. All students buy the tools at the campus bookstore and charge the purchase to their institutional accounts.

The first step would be to determine if the purchase of the tools falls under the category of expenses that are generally considered institutional costs. Although the cost of the tools is not listed as a charge in the student's enrollment agreement, the school requires the student to purchase the tools for his program of study. Therefore, as a general rule, the tool charges will be considered institutional costs. However under the exceptions rule, the tool charges may be considered noninstitutional if the school can document that its students had a "real and reasonable opportunity" to purchase the tools from someplace other than the institution. The real and reasonable test would be if the school could demonstrate the following: 1) the tools were available for purchase elsewhere; 2) the school made financial aid available to students in time to purchase the tools from another vendor before the first day of class; and 3) the institution's practices provide students with an equal opportunity to purchase the tools from the campus bookstore or the retailer across the street.

In this case, the school meets the first criterion: the tools are available at the store across the street, so an opportunity could exist. However, the school fails to satisfy the second and third criteria because the institution's routine practice of crediting students' accounts with all financial aid, and extending lines of credit for purchases at the campus bookstore, does not allow its students the option of purchasing the required tools from the retailer across the street. Therefore, the only choice this institution's students have is to purchase the tools at the campus bookstore. As a result, the cost of the tools must be classified as institutional costs.

Summary

The following summarizes the key points for determining institutional and noninstitutional costs:

1. Institutional costs are defined as charges that a school assesses a student for educational expenses that must be paid to the school directly.

2. A school either disburses financial aid to the student directly to pay for noninstitutional costs, or the school may, with the student's permission, credit the student's account to pay for noninstitutional costs.

3. Institutional costs are used to calculate institutional refunds.

4. Noninstitutional costs are used in repayment calculations.

5. Current federal law and regulations governing institutional refunds provide that all tuition, fees, room and board, and other charges a school assesses a student are institutional costs, unless demonstrated otherwise.

6. If a school wishes to exclude specific charges or costs from a refund calculation, it must demonstrate that the charges are either noninstitutional costs or are excludable costs under the regulations.

7. An institutional cost does not have to be charged to all students or be listed as a charge in an enrollment agreement to be classified as an institutional cost.

8. All charges to a student's account are not necessarily institutional costs.

9. If a charge does not appear on the student's institutional account, it may still be an institutional cost.

10. Tuition, fees, room and board (if contracted with the institution) are always institutional costs.

11. Expenses for required course materials are institutional costs, if the student does not have a real and reasonable opportunity to purchase the required course materials from any place but the school he or she is attending.

12. The total amount of all institutional costs must be used to determine the student's unpaid charges and the refund due the student.

13. If a school wishes to classify the cost of required course materials as noninstitutional costs, it must be able to substantiate that: 1) the required course materials were available for purchase at a relatively convenient location unaffiliated with the school; and 2) the school made financial aid funds available to students in a timely manner, so its students could exercise the option to purchase the required course materials from alternative sources.

14. "Excludable" costs are costs that the regulations permit a school to exclude from the total amount of institutional costs when calculating a refund, such as an administrative fee, documented cost of unreturnable equipment, and the documented cost of returnable equipment, if not returned in good condition within 20 days of withdrawal.

15. Noninstitutional costs include: charges for any required course materials that a school can document are noninstitutional because the student had “a real and reasonable opportunity” to purchase them elsewhere; a charge to the student’s account for room charges that are collected by the school but are “passed through” to an unaffiliated entity; a charge to student’s account for group health insurance fees, if the insurance is required for all students and the coverage remains in effect for the entire period for which the student was charged, despite the student’s withdrawal; and a charge to a student’s account for discretionary educationally related expenses (e.g., parking or library fines, the cost of athletic or concert tickets, etc.).

UNPAID CHARGES

Before calculating a refund, schools must first determine the student’s unpaid charges, according to the regulatory formula given below. The “Unpaid Charges” amount is used differently in nonpro rata refunds than it is in pro rata refunds, but the unpaid charges calculation is exactly the same, no matter what type of refund is involved:

Total Institutional Costs for the Enrollment Period	
- Total Aid Paid to Institutional Costs	
= <i>Student’s Scheduled Cash Payment (SCP)</i>	
- Student’s Cash Paid	
= UNPAID CHARGES	

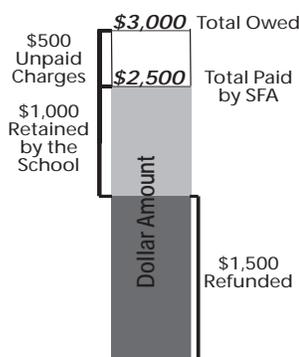
A school may choose to request any late SFA disbursements or permissible late disbursements of state student aid for which the student is still eligible and will receive in spite of having withdrawn. Note that if a school elects to receive a late disbursement, the late disbursement must be taken into account when determining the total aid received. The late disbursement amount should be counted in “Total Aid Paid to Institutional Costs.” (For more on late disbursements, see page 111.)

For all refunds other than a statutory pro rata refund required by law, any unpaid charges must be subtracted from the amount the school could otherwise retain, as shown below. (However, the applicability of this requirement to state calculations was under litigation; see page 110.)

Unpaid Charges Example

AnneMarie’s institutional costs for the semester total \$3,000. SFA pays for \$2,500. Her scheduled cash payment is \$500 (\$3,000 - \$2,500 = \$500). AnneMarie withdraws without making any payments. Therefore, her unpaid charges equal \$500. The school’s state policy allows it to retain 50% of the total school costs (\$3,000 x .50 = \$1,500).

The unpaid charges rule requires that the school subtract AnneMarie’s unpaid charges from the amount it could otherwise retain (\$1,500 - \$500 = \$1,000). Thus, the school would refund \$1,500 (\$2,500 paid - \$1,000 retained = \$1,500 refund).



This treatment of unpaid charges reaffirms the principle that the student is primarily responsible for financing his or her own education.

In a nonpro rata refund situation, if the student's unpaid charges are equal to or greater than the amount that can be retained by the school, then the school must return all of the SFA Program funds (other than FWS) that were used to pay institutional costs. Also, if the school is not able to retain the full amount allowed under the applicable refund policy, it may collect the remaining balance from the student (the unpaid charges amount). If there are no unpaid charges, the school may retain the full amount allowed and cannot charge the student for any additional amount. (The underlying assumption is that the school is entitled to get only the money it earned during the student's enrollment, as determined by the applicable refund policy.)

After the refund is calculated, if a student who is due to receive directly a portion of a refund owes unpaid charges to the school, the school may automatically credit the refund amount to the student's account up to the amount owed by the student. If a school chooses to implement this policy, it must publicize it as part of its written refund statement provided to current and prospective students. In addition, the school must notify a student in writing when any portion of the refund that was due the student is applied to unpaid institutional costs.

As stated previously, the "Unpaid Charges" total is used differently in the statutory pro rata refund calculation. For details, see "Pro rata Refund Calculations" on page 114. (Note that if the school voluntarily elects to calculate a pro rata refund in situations where it is not required by federal law—such as if the school's state guidelines require it—it is a nonpro rata refund. As explained above, the unpaid charges must be subtracted from the amount the school could otherwise retain.)

"Dear Colleague" letter GEN-95-22 (DCL), published April 1995, provided information on litigation of the "unpaid charges" rule as it relates to the calculation of state refunds. The DCL stated that the courts have imposed a preliminary injunction against the Department prohibiting it from enforcing certain provisions of the regulations until the lawsuits are resolved. The DCL stated that the Department will limit the scope of program reviews and audits (provided the school was and is in compliance with all other aspects of the refund regulations) as follows:

For refunds calculated prior to November 28, 1994 (the date of the first preliminary injunction): Program reviews and audits will determine and report on whether state refund calculations incorporate the treatment of unpaid charges; however, no monetary liabilities will be assessed while the injunctions are in effect.

For refunds calculated on or after November 28, 1994 (until further notice): The Department will not assess any liabilities against schools that calculate refunds under the state policy and do not include the treatment of unpaid charges.

At this time, the guidance issued in DCL GEN-95-22 remains in effect.

AID "RECEIVED"

To calculate a student's refund, a school must use the amount of aid received by the student as of his or her withdrawal date. As mentioned earlier, a student has "received" SFA program funds if a disbursement of SFA Program funds has been made (for information on disbursements, see Chapter 5).

A school may not retroactively change the amount of any disbursement of aid or funds received from the student as of the date of withdrawal. When determining the amount of aid received, a school must consider late disbursements, credit balances, and institutional scholarships and loans.

CLARIFICATION

Late Disbursements

A student who withdraws or otherwise ceases attendance has lost SFA eligibility and generally may not be paid further funds for the enrollment period. However, in some cases, a late disbursement may be made. A late disbursement may affect the refund calculations. (For more information on late disbursements, see Chapter 5.)

In the past, schools have sometimes used their institutional refund policy to determine what institutional costs could reasonably have been incurred. Because the late disbursement amount is a factor in the refund calculation, this method doesn't work well. Therefore, the Department recommends that schools simply determine, prior to calculating any refund amounts, what educational costs exist (for the period charged) that have not been satisfied by the student or by other sources of aid.

For instance, if institutional costs for the enrollment period total \$2,000, and at the time of withdrawal only \$1,500 had been paid, then institutional costs of \$500 exist. Assuming the student is otherwise eligible, a late Pell disbursement of \$500 could be credited to the student's account. (Even if the student was eligible for a larger Pell Grant, only \$500 could be credited to institutional costs. Any remaining Pell funds for which he was eligible could be disbursed to the student, but only for noninstitutional costs incurred.)

Once a school determines the student's reasonably incurred costs, it can calculate how much if any late SFA Program funds may reasonably be disbursed to the student. (Some states also allow late disbursements of state aid in certain circumstances.) Schools should determine late disbursement amounts prior to any refund or repayment calculations. Schools should develop a policy for such determinations and must ensure that the policy is consistently applied to all withdrawal situations that involve a late disbursement of SFA and state funds.

When calculating a refund, any SFA late disbursement amount that will be credited to institutional costs must be counted as already paid toward institutional costs, thereby reducing the student's scheduled cash payment and unpaid charges. (For more on unpaid charges, see page 109.) The repayment calculation should also consider late disbursements of SFA Program funds that will be paid directly to the student for living expenses (in the case of a student's institutional costs being paid in full).

Late disbursements of state aid may also be counted as already paid toward institutional charges, thereby reducing the student's scheduled cash payment and unpaid charges, under the following circumstances:

- the late disbursement is made according to the state's written late disbursement policies, and the student is eligible for the disbursement in spite of having withdrawn, and
- the disbursement is made within 60 days of the student's withdrawal. (If the late disbursement of state aid does not come in within 60 days, the school must recalculate the SFA refund and return any additional amounts to the appropriate SFA accounts or the lender as required.)

Late disbursements of aid from sources other than the federal SFA Programs or applicable state aid may not be counted as already paid for purposes of the SFA refund and repayment calculations. Generally, all earned aid disbursements will have been received by the time a student's SFA refund and repayment amounts are calculated. In the rare case that a student aid payment from another source is received after the SFA refund and repayment have been calculated and processed, the funds should be handled according to the policies of the agency or entity providing the aid. In many cases, the student will still have unpaid charges or unmet living expenses for which the aid may be used.

Credit balances

Credit balances are handled separately from the refund and repayment process. Before calculating a student's refund, a school must resolve any existing credit balance. If a student who withdraws has a credit balance, the school may determine if the student has incurred noninstitutional costs that have not been paid by other sources of aid. If the school does determine that such noninstitutional costs exist, the school may disburse to the student directly the portion of the credit balance needed to cover the incurred costs. If such noninstitutional costs do not exist, or the full amount of the credit balance is not needed to cover the costs, the school must return the balance to the SFA Programs. FFEL funds would be returned to the lender; Pell and Direct Loan funds would be returned to the appropriate school accounts (with corresponding adjustments to disbursement records sent to the Department); and FSEOG and Perkins Loan funds would be returned to the appropriate accounts at the school, for possible awarding to other students.

Obviously, a school will have to determine which SFA Program funds created a credit balance before it can return funds to the SFA Programs. At this time, the Department does not specify how a school must determine which SFA Program funds create a credit balance. However, the Department encourages schools to return SFA Program funds to loan programs first to reduce the likelihood of default. (For more information on credit balances, see Chapter 5.)

The Department does not address the treatment of credit balances that are created by non-SFA Program funds. However, under the current refund requirements, when a student withdraws, all credit balances must be eliminated before a refund calculation is performed.

Institutional Scholarships and Loans

An institutional scholarship that is applied up-front may not be regarded as contingent upon the student's completion. Once an institutional scholarship has been credited to a student's account, it must be counted in the refund process as having been received and the school may not retract the scholarship after the student withdraws to keep it out of the refund calculation.

CLARIFICATION

Note that if a school awards institutional scholarships to all students who attend or graduate from the school, the part of the tuition charge that is covered by the institutional scholarship is not considered a real charge for SFA purposes. This is because the law defines the tuition and fees component of the student's cost of attendance as "tuition and fees normally assessed a student carrying the same academic workload..." If every student receives a scholarship, then no student who completes the program ever pays the stated tuition and fee charges.

If a school has an installment payment agreement with the student which extends beyond the enrollment period, such that payments toward an unpaid balance would not be considered due at the time the refund calculation is performed, the school must nevertheless consider the unpaid balance as a scheduled cash payment that offsets the amount that the school may retain. It does not matter whether or when the school considers the balance due from the student.

The school may, however, set up a payment plan whereby the student's charges are covered in full by an institutional loan. If the student owes money on the loan at the point he or she withdraws, the amount owed on the loan does not constitute unpaid charges. The school's accounting procedures and records must clearly support the claim that the institutional loan was in fact made at or near the time of enrollment and that those loan funds paid the institutional costs in full. All standard lending procedures must have been followed by the school and the student. In that case, the institutional loan is treated as institutional aid received. However, it is inappropriate to establish such an arrangement after the student's

If both of the above conditions apply to the student in question, then a statutory pro rata refund must be calculated and compared to other applicable refunds (state and/or accrediting agency).

However, if the school has no applicable state or accrediting agency policies, no refund comparisons are required for any first-time student who withdrew on or before the 60% point in the enrollment period for which the student has been charged. The only applicable option for these students is pro rata, so no other calculation is necessary. For all other SFA students at a school with no applicable state or accrediting agency policies (those who are not both first-time and have withdrawn on or before the 60% point in the enrollment period for which the student has been charged), the school would have to calculate a Federal Refund Policy refund and an institutional refund, compare the two, and issue the largest refund.

As mentioned in the discussion of institutional and noninstitutional costs (see page 105), some different rules apply when calculating a pro rata refund. Some institutional costs can be excluded from the proration that results in the refund amount. Therefore, the amount of institutional costs that is used in a nonpro rata refund calculation may be different than the amount used for a pro rata calculation. The following amounts may be excluded from the institutional costs used to calculate a pro rata refund:

- A reasonable administrative fee, not to exceed \$100 or 5% of the total institutional costs, whichever is less. This does not have to be an actual fee; a school may exclude an administrative fee (within the above limits) without specifically identifying it as a separate charge.
- The documented cost to the school (in other words, what the school paid for the items) of any unreturnable equipment issued to the student or any returnable equipment that was not returned in good condition within 20 days after withdrawal.

The school must indicate clearly (as part of the written statement explaining its refund policies to students) that a withdrawing student's refund will be reduced by the exclusion of an administrative fee from the refund calculation.

The school must notify the student in writing prior to enrollment that return of equipment will be required within 20 days of withdrawal. Also, the school must disclose in the enrollment agreement any restrictions on the return of equipment, including the identification of unreturnable items. The school cannot delay the payment of a refund by reason of the equipment return process.

A school may determine whether equipment may be returned to be reissued. However, a school is responsible for demonstrating that its

policies for unreturnable equipment are reasonable, consistent, and fair to the student.

The school is entitled to bill the student for any of the charges discussed above that were excluded from the pro rata calculation and that were left unpaid. The school is entitled to retain 100% of those costs, and if they were not paid in full by the student or other sources, the school is entitled to bill the student. A school may also bill a student for any unpaid noneducational charges, such as an application fee. These charges are excluded entirely from the refund calculations because they cannot be paid for with SFA Program funds.

Another step unique to the pro rata refund calculation is the determination of the “portion that remains.” Under a pro rata refund, the school must refund an amount proportional to the portion of the enrollment period for which the student has been charged that was not completed by the student. This “portion that remains” percentage is calculated using the following formula and may be rounded down to the nearest 10%.

To Determine the Portion that Remains

Schools that use credit hours

$$\frac{\text{Weeks remaining}}{\text{Total weeks in period}}$$

*Schools that use clock hours**

$$\frac{\text{Hours remaining to be completed}}{\text{Total hours in period}}$$

Correspondence course

$$\frac{\text{Lessons not submitted}}{\text{Total lessons in period}}$$

**Excused absences count as hours completed*

Note that, because of the required rounding, this “portion that remains” figure will not necessarily correspond to the “percentage point in time” used to determine if a student withdrew on or before the 60% point. For instance, if a student withdraws at the 35% point in time, the portion that remains—65%—would be rounded down to 60%.



As a general rule, the Department has always allowed clock-hour schools to count excused absences when determining hours completed by the student if the school has a written excused absence policy allowing for a reasonable number of absences which do not need to be made up to complete the program, and if the school can document that the hours were actually scheduled and missed by the student prior to the student's withdrawal.

However, the “cash management” regulations published November 29, 1996 were more specific as to the number of excused absences that could be counted when determining completed hours for purposes of determining disbursements of SFA Program funds.

Instead of a “reasonable” number of absences, the regulations permit clock-hour schools to count excused absences of no more than 10% of the clock hours in the payment period as completed hours.

For consistency, the 10% limit applies to refund calculations made on or after July 1, 1997 (the effective date of the cash management regulations) except that schools may count excused absences of no more than 10% of the clock hours in the period of enrollment for which the student has been charged (rather than the payment period) as completed hours. If a school’s accrediting agency or state agency permits fewer excused absences, the school must use the number permitted by their accrediting or state agency.

The rest of the guidance stated above (for a written policy and documentation) still applies. So does the requirement that, if the student takes some excused absences, then returns for more classes, and then takes additional excused absences, the school can only count those excused absences that were followed by some class attendance. In other words, the school cannot count anything after the student’s last day of actual attendance.

Finally, the pro rata refund calculation differs from all nonpro rata calculations in that the “unpaid charges” total is treated differently. Instead of being subtracted from the amount the school may retain, the unpaid charges are subtracted from the refund amount. Thus, a portion of the refund goes to pay the student’s unpaid charges instead of being returned to the SFA Programs.

If the initial SFA refund is equal to or greater than the student’s unpaid charges, the school will be able to retain the full amount allowed and cannot bill the student for any additional funds. However, in the rare case that the statutory pro rata refund due is less than a student’s unpaid charges, the school may bill the student for the remaining amount. For instance, assume a student’s statutory pro rata refund was calculated at \$800, but his unpaid charges totaled \$900. Assuming the pro rata calculation was the only applicable refund for the student, the school could keep the entire refund and bill the student for the remaining \$100. (For more information on unpaid charges, see page 109.)

FEDERAL REFUND POLICY CALCULATIONS

As stated previously, a school must calculate for any SFA student a maximum of three refunds and compare those to determine the largest applicable refund for the student. Those three refunds are (1) a statutory pro rata refund, if applicable, (2) a state refund, if state standards exist, and (3) an accrediting agency refund, if the agency’s policy is approved by the Department. If none of the three options above apply to a particular student, the school must then calculate a Federal Refund Policy refund, compare it with the refund calculated under the school’s own institutional refund policy, if any, and issue the larger of the two refunds. Because a Federal Refund Policy refund is a

nonpro rata refund, the school must subtract any unpaid charges from the amount that it could otherwise retain. (See page 109 for more on unpaid charges.)

The Federal Refund Policy mandates the percentage of institutional costs that must be refunded as follows:

- withdrawal on the first day of class—100% refund of institutional costs (less the permitted administrative fee of the lesser of \$100 or 5% of institutional costs).
- withdrawal after the first day of class through the first 10% of the enrollment period for which the student has been charged—90% refund of institutional costs.
- withdrawal after the first 10% of the enrollment period for which the student has been charged through the first 25% of the enrollment period for which the student has been charged—50% refund of institutional costs.
- withdrawal after the first 25% of the enrollment period for which the student has been charged through the first 50% of the enrollment period for which the student has been charged—25% refund of institutional costs.

Schools should note that if a student withdraws before his or her first day of class, SFA Program funds may not be used to pay any portion of a student's educational costs, no matter what refund policy a school uses for that student. A school may bill the student for any costs incurred within the bounds of any limits set by the state, accrediting agency, etc.

As with the pro rata refund policy, a school may exclude from the institutional costs used to calculate the Federal Refund Policy refund a reasonable administrative fee, not to exceed \$100 or 5% of the total institutional costs, whichever is less. A school may also exclude the documented cost to the school of any unreturnable equipment issued to the student or any returnable equipment that was not returned in good condition within 20 days after withdrawal. (See page 115 for more details.)

REPAYMENT CALCULATIONS

A different situation may occur—repayment—when a student received SFA Program funds as a disbursement to cover living expenses. Living expenses are defined as education costs above and beyond the tuition and fee charges, including items such as room and board (if the student does not contract with the school), books, supplies, transportation, and child-care expenses.

When a student who received directly an SFA disbursement ceases attendance, the school must determine whether the student must repay a portion of the disbursement. If the school finds that the

student's living expenses incurred up to the time of withdrawal exceed the amount of funds disbursed, the student does not owe a repayment. However, if the disbursement was greater than the student's living expenses up to the withdrawal date, the student must repay the excess amount.

Remember, as with refunds, FWS wages are excluded because they have been earned. FFEL and Direct Loan funds are not counted in figuring the amount of the repayment (because the student is already obligated to repay these funds to the lender).

The school is responsible for notifying the student of the amount owed, for billing the student, and for collecting the repayment. However, a school is not liable for the owed amount if it cannot collect the repayment from the student. In such a case, the student is ineligible for further SFA Program funds, and must be reported as being in overpayment status on the financial aid transcript or submissions to the National Student Loan Data System (NSLDS).

A student who fails to repay Pell or FSEOG funds can be referred to the Department for collection purposes, unless the overpayment is the result of school error. In addition, the student's failure to repay the Pell or FSEOG funds must be reported to the NSLDS. The Department will refer the account to its collection agent, and the student's record will be placed in a subsystem database match of the Central Processing System (CPS). Until the overpayment is resolved, the CPS will flag any future FAFSA filed by that student; on the resulting output record, comments will explain the overpayment owed and will instruct the school and student in resolving the matter. See the *SFA Handbook: Student Eligibility* for information on referring overpayment cases to the Department, and information on the NSLDS.

REFUNDS OF \$25 OR LESS AND REPAYMENTS UNDER \$100

A school does not have to pay a refund of \$25 or less. However, because a refund returned to an SFA loan program would reduce the amount of the loan that a student would have to repay, a school may not keep any portion of a refund that would be distributed to an SFA loan program unless the school has written authorization from the student in the enrollment agreement to do so. The enrollment agreement must explain clearly that the student is permitting the school to keep the funds, rather than having the funds used to reduce the student's debt, should the student withdraw.

A school is not required to actually calculate the refund to prove that it is \$25 or less if it can demonstrate that the institutional costs are so low that no refund would exceed \$25.

Also (unless otherwise provided for in regulations for a specific SFA Program), if the amount of a repayment is less than \$100, a

student is considered not to owe the repayment, and the school is not required to contact the student or recover the repayment.

ALLOCATING REFUNDS AND REPAYMENTS

Refund and repayment amounts must be distributed according to a specific order of priority prescribed in the law and regulations. The school's refund or repayment allocation may not deviate from the prescribed order, even if the school's agreement with a state or private agency requires the school to return a specific percentage of the aid provided by that agency. Federal laws and regulations supersede all other requirements and must be followed.

Note that a school must allocate a refund or repayment in the order specified even if all SFA Program funds were disbursed to the student to cover noninstitutional costs. For example, the only SFA Program funds that a student receives is an \$800 Stafford Loan. The school disburses the \$800 Stafford Loan directly to the student to cover some of the student's noninstitutional costs. The student's institutional costs are covered by other sources. When the student withdraws, the school uses the SFA refund requirements to determine that the refund is \$600. This \$600 must be returned to the Stafford Loan.

Refunds on behalf of SFA recipients must be distributed in the following order:

1. Unsubsidized Federal Stafford Loans
2. Subsidized Federal Stafford Loans
3. Federal PLUS Loans
4. Unsubsidized Federal Direct Stafford Loans
5. Subsidized Federal Direct Stafford Loans
6. Federal Direct PLUS Loans
7. Federal Perkins Loans
8. Federal Pell Grants
9. FSEOGs
10. Other SFA Programs

11. Other federal, state, private, or institutional sources of aid

12. The student

Repayments from SFA recipients must be distributed as follows:

1. Federal Perkins Loans

2. Federal Pell Grants

3. FSEOGs

4. Other SFA Programs

CLARIFICATION

5. Other federal, state, private, or institutional sources of aid

When returning funds to “other federal, state, private, or institutional sources of aid”, the funds must first be returned to any federal sources.

Funds returned to any SFA Program may not exceed those received from that program. However, in some cases, if the school returns the required amount of the refund, the entire outstanding balance of the loan will be eliminated because the holder of the loan will pay off a portion of the loan balance.

If the amount of a FFEL that is delivered to a student (the net amount) is returned by the school or the student within 120 days of the date the lender disbursed the loan, the lender must return any deducted origination fees and insurance premiums to the student’s account. Similarly, if the amount of a Direct Loan that is disbursed to a student is returned by the school or the student within 120 days of the disbursement, the Department must return any deducted loan fees to the student’s account.

In addition, if the amount of a FFEL that is delivered to a student is returned by the school (not the student) after 120 days of the date the lender disbursed the loan, the lender must return any deducted origination fees and insurance premiums to the student’s account. The same is not true for Direct Loans. If a Direct Loan is repaid in full by either the school or the student after the 120 days, the deducted loan fees are not returned to the student’s account.

After making the refund for FFEL and/or Direct Loan funds, any additional refund amounts should be distributed to other sources of aid in the required order.

A school may use its own funds to eliminate remaining FFEL balances for a period of enrollment if a refund results in the school returning less than the amount needed to eliminate the loan balance. The Department has determined that a school may use its own funds to eliminate remaining Direct Loan and Perkins Loan balances as well. A school may contribute its own funds at the time of



the distribution of the refund only. A school may not use its own funds to eliminate any portion of a loan balance after the refund has been made, or if no refund is required toward the balance on the loan. For example, a school may not use its own funds to pay off a balance on a Perkins Loan unless some portion of the refund is required to be paid toward the balance of the Perkins Loan. For unsubsidized loans where interest has already accrued when the student withdraws, a school may pay off the accrued interest only if the school determines the exact amount of the accrued interest for the period of enrollment.

TIME FRAMES FOR RETURN OF FUNDS

The regulations establish deadlines for the return of funds to the SFA Programs and to a student. In addition, schools are required to determine the withdrawal date for unofficial withdrawals by a certain time. The chart on the next page lists the time frames for the return of funds when a refund occurs.

A repayment must be returned to the appropriate SFA Program accounts within 30 days of the date the student repays the funds.

PENALTIES FOR FAILURE TO PAY REFUNDS

Criminal Penalties

Any person who knowingly and willfully fails to refund (or attempts to fail to refund) SFA Program funds will be fined up to \$20,000 or imprisoned for up to 5 years, or both. However, if the amount failed to be refunded is \$200 or less, the person will be fined up to \$5,000 or imprisoned up to one year, or both.

Amendments
of 1998

Additional Penalties

The Amendments of 1998 added a provision that allows the Department to assess a penalty, equivalent to the penalty applicable to nonpayment of taxes, in instances where an individual who exercises substantial control over a school willfully fails to pay a refund amount owed on behalf of a student or borrower to a lender or the Department. This provision applies to any unpaid refunds first required to be paid on or after 90 days after October 7, 1998. This penalty may be in addition to other penalties provided by law.

Time Frames for Return of Funds

Reason for refund calculation	SFA funds (non-FFEL) must be returned to SFA Program accounts within...	FFEL funds must be returned to the lender within...	Funds due to a student must be paid within...	Determination of the student's withdrawal date must be made within...
Official withdrawal	30 days from the later of— • last date of attendance • student notification	60 days from the later of— • last date of attendance • student notification	30 days from the later of— • last date of attendance • student notification	N/A
Unofficial withdrawal	30 days of date of determination by school that student ceased attending	60 days of date of determination by school that student ceased attending	30 days of earlier of— • date of determination by school that student ceased attending • end of term • end of period of enrollment for which the student has been charged	30 days of earlier of the end of— • the academic year • the program • the period of enrollment for which the student has been charged
Never returned from approved leave of absence	30 days of earlier of— • end of the LOA • student notification	30 days of earlier of— • end of the LOA • student notification	30 days of earlier of— • end of the LOA • student notification	N/A
Unapproved leave of absence	30 days from student's last recorded date of attendance	60 days of the last recorded date of attendance	30 days from student's last recorded date of attendance	N/A

Refund & Repayment

Case Studies

The Case Study Worksheets

WITHDRAWAL RECORD (WR)

Completed properly when a student withdraws, this document provides all the data needed to calculate refunds and repayments and organizes it so that it's easy to use.

WITHDRAWAL RECORD

1. Student Information

Name _____ Start Date _____ Withdrawal Date/LDA _____
 Social Security Number _____ Length of Enrollment Period _____ Date of W/D/LDA Determination _____

2. Program Costs

non-inst. Tuition/Fees	non-inst. Personal Living	USE TOTALS FOR PERIOD CHARGED*
Administrative Fee	Dependent Care	
Room & Board	Disability Costs	
Books & Supplies	Miscellaneous	
Transportation	Miscellaneous	

TOTAL Institutional Costs **A**
 TOTAL Personal Costs **B**
 TOTAL Aid Paid To Inst. Costs **C**
 TOTAL Paid To Inst. Costs **D**
 TOTAL Aid Paid to Cash **E**

3. Payments/Disbursements

DATE	SOURCE	Paid to Inst. Costs	Cash to Student	DATE	SOURCE	Paid to Inst. Costs	Cash to Student

4. Data for Pro Rata and Federal Refund

IS THIS STUDENT A FIRST-TIME STUDENT? YES NO

DID THIS STUDENT WITHDRAW ON OR BEFORE THE 60% POINT? YES NO

IF THE ANSWER TO BOTH QUESTIONS IS "YES," a statutory pro rata refund calculation is required for this student. For this calculation, you must determine the Portion That Remains (of the enrollment period) and the institutional costs that may be excluded, if any.

TO DETERMINE THE PORTION THAT REMAINS, calculate as follows and round DOWN to the nearest 10%:
 *for credit-hour programs: **TOTAL WEEKS IN PERIOD** = _____
 *for clock-hour programs: **TOTAL HOURS IN PERIOD** = _____
 *for correspondence programs: **LESSONS NOT SUBMITTED** = _____
TOTAL LESSONS IN PERIOD = _____

TO DETERMINE EXCLUDABLE INSTITUTIONAL COSTS:
 *Administrative Fee up to \$100 or 5%, whichever is less _____
 *Documented Cost of Unreturnable Equipment _____
 *Documented Cost of Reusable Equipment if not returned in good condition within 30 days of withdrawal _____
TOTAL EXCLUDABLE INST. COSTS (for Pro Rata and Federal Refund calculations only) = _____

Pro Rata/Federal Refund Institutional Costs **A1**
 Total Institutional Costs _____ Total Excludable Inst. Costs _____

REFUND CALCULATION WORKSHEET

Completed using the figures from the WR, this Worksheet calculates unpaid charges and refunds, and can be used for nonpro rata refund policies (except the Federal Refund Calculation).

REFUND CALCULATION WORKSHEET

STEP ONE
Unpaid Charges

Total Institutional Costs (from Withdrawal Record) **A**
 Total Aid Paid to Inst. Costs* (also from Withdrawal Record) **C**
 Scheduled Cash Payment (SCP) (attribution not allowable)
 Student's Cash Paid (from Withdrawal Record)

UNPAID CHARGES

STEP TWO
Amount Retained

Total Institutional Costs (from Withdrawal Record) **A**
 % Allowed to Retain* (from refund policy being used)
 Initial Amount Retained (before charges must be returned) **C1**
 UNPAID CHARGES (from Step One) **C2**

AMOUNT RETAINED

STEP THREE
Refund Amount

Total Paid to Institutional Costs (from Withdrawal Record) **D**
 Amount Retained (from Step Two) **C1**

REFUND AMOUNT TO BE DISTRIBUTED

REPAYMENT CALCULATION WORKSHEET

STEP ONE
Living Expenses Incurred

Room & Board = _____
 Books & Supplies = _____
 Transportation = _____
 Personal/Living/Misc. = _____

TOTAL COSTS **B** X _____ = _____ **TOTAL INCURRED**

STEP TWO
Cash Paid to Student

Total Aid Paid as Cash (from Withdrawal Record) **E**
 Cash Paid from FFEL/Direct Funds _____
TOTAL CASH DISBURSED

STEP THREE
Repayment Amount

Total Cash Paid to Student (from Step Two) _____
 Total Costs Incurred (from Step One) _____
REPAYMENT AMOUNT TO BE DISTRIBUTED

REPAYMENT DISTRIBUTION—Prescribed by Regulation

TOTAL REPAYMENT

- Federal Perkins Loan
- Federal Pell Grant
- FSEOG
- Other Title IV Aid Programs
- Other Federal, State, private, or institutional aid

REPAYMENT CALCULATION WORKSHEET

This Worksheet uses figures from the WR to calculate the repayment owed by the student.

PLUS, Pro Rata and Federal Refund Calculation Worksheets

Using The Withdrawal Record

Each case study begins with a **Withdrawal Record (WR)**. Filled out properly, the WR easily organizes all the information needed to calculate refunds and repayments. The diagrams on these two pages describe how the WR is used and summarizes some important refund and repayment requirements. A blank WR and blank Worksheets appear on pp. 3-108 through 3-112, followed by two case studies showing the calculations of two regular (i.e., *nonpro rata*) refunds and a repayment. The last three case studies are *pro rata* refund examples.

Length of Enrollment Period. Use the enrollment period for which the student was charged, in keeping with the following minimums. For term programs, the minimum enrollment period is the term. For nonterm programs longer than or equal to an academic year, the minimum enrollment period is either the payment period or one-half of the academic year, whichever is greater. For all nonterm programs shorter than the academic year, the minimum period is the program length.

Date of WD/LDA Determination. Generally, all SFA refunds must be completed within 30 days of the student's withdrawal. However, the school may not discover an unofficial withdrawal until well after that deadline. In such cases, the deadline for return of funds turns on the date of the school's determination.

WITHDRAWAL RECORD

1. Student Information

Name _____ Start Date _____ Withdrawal Date/LDA _____
 Social Security Number _____ Length of Enrollment Period _____ Date of WD/LDA Determination _____

2. Program Costs

non-inst.	inst.	non-inst.	inst.	
	Tuition/Fees		Personal/Living	
	Administrative Fee		Dependent Care	
	Room & Board		Disability Costs	
	Books & Supplies		Miscellaneous	
	Transportation		Miscellaneous	

USE TOTALS FOR PERIOD CHARGED*

TOTAL Inst. Costs: **A**

TOTAL Noninst. Costs: **B**

Total Institutional and Non-institutional Costs. School charges, such as tuition and fees, are treated differently from expenses that are not charged by the school. (For a discussion of what constitutes an institutional vs. a noninstitutional charge, see pg. 3-87.)

Aid Received.

This section records all aid and student payments received by the school, except work-study aid. For the loan programs, the amounts *received* are used (the origination and insurance fees are excluded). Refunds apply only to funds used to pay institutional charges (including student payments), while repayments deal only with aid that is disbursed directly to the student. Therefore, it's important to determine which funds paid institutional costs and which were disbursed in cash (or check) to the student for noninstitutional costs. (If part of a payment went to the school while the remainder was disbursed to the student, the exact amount that went to each destination must be recorded.)

Aid Totals.

Total C should include **all** aid (not just SFA funds) paid to school charges. Total D should reflect **all** amounts (including student payments) paid to school charges. Total E should include **all** aid (not just SFA funds) paid to the student in cash.

3. Payments/Disbursements

DATE	SOURCE	Paid to Inst. Costs	Cash to Student	DATE	SOURCE	Paid to Inst. Costs	Cash to Student
(Exclude work-study awards.)							

TOTAL Aid Paid To Inst. Costs: **C**

TOTAL Paid To Inst. Costs: **D**

TOTAL Aid Paid as Cash: **E**

***USE TOTALS AS CHARGED FOR THE ENROLLMENT PERIOD** (The following minimums apply: for term programs, use totals for the term; for all nonterm programs longer than or equal to the academic year, use totals for the payment period or for one-half of the academic year, whichever is greater. For all nonterm programs shorter than the academic year, use totals for the program length. If you charge by different periods for different charges, convert all totals to represent the longest period.)

4. Data for Pro Rata and Federal Refund

IS THIS STUDENT A FIRST-TIME STUDENT? A first-time student is one who has not previously attended at least one class at this school, or has received a 100 percent refund (less any permitted administrative fee) for previous attendance. (A first-time student remains so until he or she withdraws after attending at least one class at the school or completes the period of enrollment.)

YES NO

DID THIS STUDENT WITHDRAW ON OR BEFORE THE 60% POINT? For credit-hour programs, the 60% point is the point in calendar time when 60% of the enrollment period has elapsed. For clock-hour programs, it is the point when this particular student completes 60% of the hours scheduled for the enrollment period.

YES NO

IF THE ANSWER TO BOTH QUESTIONS IS "YES," a statutory pro rata refund calculation is required for this student. For this calculation, you must determine the Portion That Remains (of the enrollment period) and the institutional costs that may be excluded, if any.

TO DETERMINE THE PORTION THAT REMAINS calculate as follows and round DOWN to the nearest 10%.

- For credit-hour programs:

WEEKS REMAINING	=	.....
TOTAL WEEKS IN PERIOD	=	.....
- For clock-hour programs:

HOURS REMAINING	=	.....
TOTAL HOURS IN PERIOD	=	.....
- For correspondence programs:

LESSONS NOT SUBMITTED	=	.....
TOTAL LESSONS IN PERIOD	=	.....

DO NOT use scheduled hours when excused absences can be counted as hours completed.

TO DETERMINE EXCLUDABLE INSTITUTIONAL COSTS:

•Administrative Fee (up to \$100 or 5%, whichever is less) .....	+	.....
•Documented Cost of Unreturnable Equipment .....	+	.....
•Documented Cost of Returnable Equipment (if not returned in good condition within 20 days of withdrawal) .....	+	.....
TOTAL EXCLUDABLE INST. COSTS (for Pro Rata and Federal Refund calculations only):	=	.....

Pro Rata/Federal Refund Institutional Costs: **A1**

A Total Institutional Costs **A1** Total Excludable Inst. Costs =

Portion that Remains for Pro Rata. The "portion that remains" figure is needed for pro rata calculations.

Special Determinations for Pro Rata and Federal Refund Calculation. If a student qualifies for a pro rata or Federal Refund calculation, the excludable costs (according to the regulatory rules) are needed for a refund calculation.

WARNING: DO NOT use without the accompanying instructions!!

WITHDRAWAL RECORD

1. Student Information

Name	Start Date	Withdrawal Date/LDA
Social Security Number	Length of Enrollment Period	Date of WD/LDA Determination

2. Program Costs

inst.	non-inst.	Tuition/Fees	inst.	non-inst.	Personal/Living
		Administrative Fee			Dependent Care
		Room & Board			Disability Costs
		Books & Supplies			Miscellaneous
		Transportation			Miscellaneous

USE TOTALS FOR PERIOD CHARGED*

TOTAL Inst. Costs:

A

TOTAL Noninst. Costs:

B

TOTAL Aid Paid To Inst. Costs:

C

TOTAL Paid To Inst. Costs:

D

TOTAL Aid Paid as Cash:

E

3. Payments/Disbursements

(Exclude work-study awards.)

DATE	SOURCE	Paid to Inst. Costs	Cash to Student	DATE	SOURCE	Paid to Inst. Costs	Cash to Student

***USE TOTALS AS CHARGED FOR THE ENROLLMENT PERIOD** (The following minimums apply: for term programs, use totals for the term; for all nonterm programs longer than or equal to the academic year, use totals for the payment period or for one-half of the academic year, whichever is greater. For all nonterm programs shorter than the academic year, use totals for the program length. If you charge by different periods for different charges, convert all totals to represent the longest period.)

4. Data for Pro Rata and Federal Refund

IS THIS STUDENT A FIRST-TIME STUDENT? A first-time student is one who has not previously attended at least one class at this school, or has received a 100 percent refund (less any permitted administrative fee) for previous attendance. (A first-time student remains so until he or she withdraws after attending at least one class at the school or completes the period of enrollment.)

YES NO

DID THIS STUDENT WITHDRAW ON OR BEFORE THE 60% POINT? For credit-hour programs, the 60% point is the point in calendar time when 60% of the enrollment period has elapsed. For clock-hour programs, it is the point when this particular student completes 60% of the hours scheduled for the enrollment period.

YES NO

IF THE ANSWER TO BOTH QUESTIONS IS "YES," a statutory pro rata refund calculation is required for this student. For this calculation, you must determine the Portion That Remains (of the enrollment period) and the institutional costs that may be excluded, if any.

TO DETERMINE THE PORTION THAT REMAINS, calculate as follows and round DOWN to the nearest 10%:

- For credit-hour programs:

$$\frac{\text{WEEKS REMAINING}}{\text{TOTAL WEEKS IN PERIOD}} = \dots\dots\dots$$
- For clock-hour programs:

$$\frac{\text{HOURS REMAINING}}{\text{TOTAL HOURS IN PERIOD}} = \dots\dots\dots$$
- For correspondence programs:

$$\frac{\text{LESSONS NOT SUBMITTED}}{\text{TOTAL LESSONS IN PERIOD}} = \dots\dots\dots$$

*DO NOT use scheduled hours. Also, excused absences can count as "hours completed."

TO DETERMINE EXCLUDABLE INSTITUTIONAL COSTS:

- Administrative Fee (up to \$100 or 5%, whichever is less) +
- Documented Cost of Unreturnable Equipment +
- Documented Cost of Returnable Equipment (if not returned in good condition within 20 days of withdrawal) +

TOTAL EXCLUDABLE INST. COSTS (for Pro Rata and Federal Refund calculations only): =

Pro Rata/Federal Refund Institutional Costs:

A - **A1** = **A1**

Total Institutional Costs Total Excludable Inst. Costs



United States Department of Education
Student Financial Aid Programs

REFUND CALCULATION WORKSHEET

STEP ONE

Unpaid Charges

*Scheduled SFA payments and FFEL/Direct late disbursements that have not yet been received, for which the student is still eligible in spite of having withdrawn, must be counted to reduce the student's scheduled cash payment. This includes late State aid disbursements as allowed under written State policy. (Scheduled payments from sources other than those above cannot be counted in this manner.)

	Total Institutional Costs (from Withdrawal Record) (A)
	Total Aid Paid to Inst. Costs* (also from Withdrawal Record) (C)
	Scheduled Cash Payment (SCP) (attribution not allowable)
	Student's Cash Paid (from Withdrawal Record)
	UNPAID CHARGES

STEP TWO

Amount Retained

*Use the percentage specified by the State, accrediting agency, Federal Refund Calculation, or institutional refund policy being used for this calculation. For first-time students who withdraw on or before the 60% point in the enrollment period (see Withdrawal Record for details), a statutory *pro rata* refund must also be calculated. For every student receiving SFA funds, the school must compare the possible refunds and use the calculation that provides the largest refund.

	Total Institutional Costs (from Withdrawal Record) (A)
	% Allowed to Retain* (from refund policy being used)
	Initial Amount Retained By The School
	UNPAID CHARGES (from Step One)
	AMOUNT RETAINED

* If this amount is zero or negative, all SFA paid to school charges must be returned (exc. FWS).

STEP THREE

Refund Amount

Generally, funds must be returned to the appropriate program account(s) within 30 days of the date of withdrawal, and to the lender within 60 days of the same.

	Total Paid to Institutional Costs (from Withdrawal Record) (D)
	Amount Retained (from Step Two)
	REFUND AMOUNT TO BE DISTRIBUTED

REFUND DISTRIBUTION—Prescribed by Law and Regulation

TOTAL REFUND

- | | |
|--|---|
| 1. Federal SLS Loan | 8. Federal Perkins Loan |
| 2. Unsubsidized Federal Stafford Loan | 9. Federal Pell Grant |
| 3. Subsidized Federal Stafford Loan | 10. FSEOG |
| 4. Federal PLUS Loan | 11. Other Title IV Aid Programs |
| 5. Unsubsidized Federal Direct Stafford Loan | 12. Other Federal, state, private, or institutional aid |
| 6. Subsidized Federal Direct Stafford Loan | 13. The student |
| 7. Federal Direct PLUS Loan | |



REPAYMENT CALCULATION WORKSHEET

STEP ONE

Living Expenses Incurred

Because schools' repayment policies differ, this step can be calculated two ways: the total noninstitutional costs ("B" from Withdrawal Record) may be retained at a flat percentage, or the itemized costs (listed on Withdrawal Record) may be retained at differing rates and then totalled.

	NONINST. COSTS (from Withdrawal Record)	EXPENSES ACTUALLY INCURRED (from school's repayment policy)
Room & Board.....	X	=
Books & Supplies.....	X	=
Transportation.....	X	=
Personal/Living/Misc.....	X	=
TOTAL COSTS (B)	X	=
		TOTAL INCURRED

STEP TWO

Cash Paid to Student

*FFEL and Direct Loan funds are excluded from repayment—the student is already obligated to repay these funds to the lender.

	Total Aid Paid as Cash (from Withdrawal Record) (E)
_____	Cash Paid from FFEL/Direct Funds
=====	TOTAL CASH DISBURSED

STEP THREE

Repayment Amount

Funds must be returned to the appropriate program account(s) within 30 days of the student's repayment to the school.

	Total Cash Paid to Student (from Step Two)
_____	Total Costs Incurred (from Step One)
=====	REPAYMENT AMOUNT TO BE DISTRIBUTED

If this amount is less than \$100, the student owes no repayment.

REPAYMENT DISTRIBUTION—Prescribed by Regulation

TOTAL REPAYMENT

1. Federal Perkins Loan
2. Federal Pell Grant
3. FSEOG
4. Other Title IV Aid Programs
5. Other Federal, State, private, or institutional aid



United States Department of Education
Student Financial Aid Programs

FEDERAL REFUND CALCULATION WORKSHEET

<div style="background-color: black; color: white; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">STEP ONE*</div> <div style="text-align: center; font-size: 1.2em; margin-top: 5px;">Unpaid Charges</div> <p style="font-size: 0.8em; margin-top: 10px;">*Scheduled SFA payments and FFEL/Direct late disbursements that have not yet been received, for which the student is still eligible in spite of having withdrawn, must be counted to reduce the student's scheduled cash payment. This includes late State aid disbursements as allowed under written State policy. (Scheduled payments from sources other than those above cannot be counted in this manner.)</p>	<div style="border-bottom: 1px solid black; width: 100%;"></div>	<div style="text-align: right; font-size: 0.8em;">Total Institutional Costs (from Withdrawal Record) A</div> <hr style="border: 0.5px dotted black;"/> <div style="text-align: right; font-size: 0.8em;">Total Aid Paid to Inst. Costs* (also from Withdrawal Record) C</div> <hr style="border: 0.5px dotted black;"/> <div style="text-align: right; font-weight: bold; font-size: 0.8em;">Scheduled Cash Payment (SCP) (attribution not allowable)</div> <hr style="border: 0.5px dotted black;"/> <div style="text-align: right; font-size: 0.8em;">Student's Cash Paid (from Withdrawal Record)</div> <hr style="border: 1px solid black;"/> <div style="text-align: right; font-weight: bold; font-size: 0.8em;">UNPAID CHARGES</div>
<div style="background-color: black; color: white; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">STEP TWO</div> <div style="text-align: center; font-size: 1.2em; margin-top: 5px;">Refund Amount</div> <p style="font-size: 0.8em; margin-top: 10px;">Generally, funds must be returned to the appropriate program account(s) within 30 days of the date of withdrawal, and to the lender within 60 days of the same.</p>	<div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="border-bottom: 1px solid black; width: 100%;"></div>	<div style="text-align: right; font-size: 0.8em;">Federal Refund Calculation Inst. Costs (from Withdrawal Record) A1</div> <hr style="border: 0.5px dotted black;"/> <div style="text-align: right; font-size: 0.8em;">% to be Refunded (from the regulatory policy)</div> <hr style="border: 1px solid black;"/> <div style="text-align: right; font-weight: bold; font-size: 0.8em;">REFUND AMOUNT TO BE DISTRIBUTED</div>

***NOTE:** Because calculating a Federal Refund in this manner does not show the amount retained by the school, the subtraction of unpaid charges from that amount is also not shown. However, the unpaid charges amount must still be calculated for the student because the refund process may result in the school not keeping the full amount it is allowed to retain under the Federal Refund Policy. In such a case, the school may collect the remaining balance from the student (the unpaid charges amount).

REFUND DISTRIBUTION—Prescribed by Law and Regulation

TOTAL REFUND

- | | |
|--|---|
| 1. Federal SLS Loan | 8. Federal Perkins Loan |
| 2. Unsubsidized Federal Stafford Loan | 9. Federal Pell Grant |
| 3. Subsidized Federal Stafford Loan | 10. FSEOG |
| 4. Federal PLUS Loan | 11. Other Title IV Aid Programs |
| 5. Unsubsidized Federal Direct Stafford Loan | 12. Other Federal, state, private, or institutional aid |
| 6. Subsidized Federal Direct Stafford Loan | 13. The student |
| 7. Federal Direct PLUS Loan | |



PRO RATA REFUND CALCULATION WORKSHEET

<div style="background-color: black; color: white; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">STEP ONE</div> <h3 style="text-align: center; margin-top: 0;">Unpaid Charges</h3> <p style="font-size: 0.8em; margin-top: 5px;">*Scheduled SFA payments and FFEL/Direct late disbursements that have not yet been received, for which the student is still eligible in spite of having withdrawn, must be counted to reduce the student's scheduled cash payment. This includes late State aid disbursements as allowed under written State policy. (Scheduled payments from sources other than those above cannot be counted in this manner.)</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10px; text-align: center;">=</td> <td style="border-bottom: 1px dotted black; width: 50%;"></td> <td style="width: 40%; font-size: 0.8em;">Total Institutional Costs (from Withdrawal Record) (A)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="border-bottom: 1px dotted black;"></td> <td style="font-size: 0.8em;">Total Aid Paid to Inst. Costs* (also from Withdrawal Record) (C)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="border-bottom: 1px dotted black;"></td> <td style="font-weight: bold; font-size: 0.8em;">Student's Scheduled Cash Payment (SCP)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="border-bottom: 1px dotted black;"></td> <td style="font-size: 0.8em;">Student's Cash Paid (from Withdrawal Record)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="border-bottom: 1px solid black;"></td> <td style="font-weight: bold; font-size: 0.8em;">UNPAID CHARGES</td> </tr> </table>	=		Total Institutional Costs (from Withdrawal Record) (A)	=		Total Aid Paid to Inst. Costs* (also from Withdrawal Record) (C)	=		Student's Scheduled Cash Payment (SCP)	=		Student's Cash Paid (from Withdrawal Record)	=		UNPAID CHARGES
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<div style="background-color: black; color: white; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">STEP TWO</div> <h3 style="text-align: center; margin-top: 0;">Refund Amount</h3> <p style="font-size: 0.8em; margin-top: 5px;">Generally, funds must be returned to the appropriate program account(s) within 30 days of the date of withdrawal, and to the lender within 60 days of the same.</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10px; text-align: center;">X</td> <td style="border-bottom: 1px dotted black; width: 50%;"></td> <td style="width: 40%; font-size: 0.8em;">Pro Rata Institutional Costs (from Withdrawal Record) (A1)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="border-bottom: 1px dotted black;"></td> <td style="font-size: 0.8em;">% to be Refunded (from the Portion That Remains)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="border-bottom: 1px dotted black;"></td> <td style="font-weight: bold; font-size: 0.8em;">Initial Refund Amount</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="border-bottom: 1px dotted black;"></td> <td style="font-size: 0.8em;">Unpaid Charges (from Step One)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="border-bottom: 1px solid black;"></td> <td style="font-weight: bold; font-size: 0.8em;">ACTUAL REFUND TO BE DISTRIBUTED</td> </tr> </table> <div style="font-size: 0.7em; margin-top: 5px; border: 1px dotted black; padding: 2px; width: fit-content;"> If this amount is negative the school may bill the student for that amount. No refund is due. </div>	X		Pro Rata Institutional Costs (from Withdrawal Record) (A1)	=		% to be Refunded (from the Portion That Remains)	=		Initial Refund Amount	=		Unpaid Charges (from Step One)	=		ACTUAL REFUND TO BE DISTRIBUTED
X		Pro Rata Institutional Costs (from Withdrawal Record) (A1)														
=		% to be Refunded (from the Portion That Remains)														
=		Initial Refund Amount														
=		Unpaid Charges (from Step One)														
=		ACTUAL REFUND TO BE DISTRIBUTED														

REFUND DISTRIBUTION—Prescribed by Law and Regulation

TOTAL REFUND	
1. Federal SLS Loan	8. Federal Perkins Loan
2. Unsubsidized Federal Stafford Loan	9. Federal Pell Grant
3. Subsidized Federal Stafford Loan	10. FSEOG
4. Federal PLUS Loan	11. Other Title IV Aid Programs
5. Unsubsidized Federal Direct Stafford Loan	12. Other Federal, state, private, or institutional aid
6. Subsidized Federal Direct Stafford Loan	13. The student
7. Federal Direct PLUS Loan	



NOTE: This State calculation treats unpaid charges as required by regulation.

Case Study #1

- Term school
- Non-pro rata refund
- Unpaid charges due

SCHOOL PROFILE

Cottonwood University is a residential school offering two- and four-year programs on a semester term system. CU participates in the Pell, FFEL, and campus-based programs. Each semester is 15 weeks long, and the school uses the following refund policy, according to State law:

Student Withdraws:	School Retains:
Before classes	0% (Full refund)
First two weeks	20%
Third or Fourth week	30%
Fifth or Sixth week	50%
Seventh or Eighth week	75%
Ninth or Tenth week	90%
After Tenth week	100% (No refund)

For students who begin classes, 50% of the books and supplies allowance is considered incurred (in keeping with the local bookstores' return policies). Other living expenses are prorated based on the remaining weeks in the term.

STUDENT PROFILE

Russlyn McCullough enrolled as a freshman for the Fall Semester at Cottonwood University. She moved into the dorms. Her costs for the semester are as follows (institutional costs are asterisked):

Tuition & Fees*	\$2400
Room & Board*	\$3090
Books & Supplies	\$600
Transportation	\$850
Personal Expenses	\$900

Russlyn received the following financial aid for the academic year:

Federal Pell	\$2150
FSEOG	\$1100
Federal Stafford	\$2500
Federal Work-Study	\$1500
CU Scholarship	\$1000
Rotary Scholarship•	\$500
•(for 1st semester only)	

Classes started on August 30, and Russlyn officially withdrew on November 1, in the tenth week.

DISBURSEMENTS AND PAYMENTS

CU received Russlyn's financial aid for the semester in the following order and amounts: \$1075 Pell, \$500 CU scholarship, \$550 FSEOG, \$1163 Stafford, and \$500 Rotary scholarship. All these amounts, plus Russlyn's \$500 cash payment, were credited to her account. No cash was disbursed, but Russlyn did earn FWS each week.

IMPORTANT POINTS

Although Russlyn is a first-time student, because she withdrew after the 60% point in the term, a statutory pro rata calculation is not required. Because CU charges by the term, the costs and aid received for the semester are used on the WR. Note that origination and insurance fees were deducted from the Stafford amount reported on the WR, and that Russlyn's FWS award and earnings do not appear anywhere on the WR, because earnings from work cannot be recovered.

Because Russlyn's financial aid was not sufficient to pay her total school charges, unpaid charges exist and will affect the refund amount. No repayment calculation is necessary because Russlyn did not receive a cash disbursement of SFA funds. Refund distribution is prescribed by law, and CU returns the federal SFA funds first to the Stafford lender.

REFUND CALCULATION WORKSHEET

<div style="background-color: black; color: white; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">STEP ONE</div> <p style="font-size: 1.2em; text-align: center;">Unpaid Charges</p> <p style="font-size: 0.8em;">*Scheduled SFA payments and FFEL/Direct late disbursements that have not yet been received, for which the student is still eligible in spite of having withdrawn, must be counted to reduce the student's scheduled cash payment. This includes late State aid disbursements as allowed under written State policy. (Scheduled payments from sources other than those above cannot be counted in this manner.)</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; text-align: center;">—</td> <td style="width: 30%; text-align: right; font-size: 1.2em;">5490</td> <td style="width: 60%;">Total Institutional Costs (from Withdrawal Record) (A)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">3788</td> <td>Total Aid Paid to Inst. Costs* (also from Withdrawal Record) (C)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">1702</td> <td>Scheduled Cash Payment (SCP) (attribution not allowable)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">500</td> <td>Student's Cash Paid (from Withdrawal Record)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em; border-top: 1px solid black;">1202</td> <td>UNPAID CHARGES</td> </tr> </table>	—	5490	Total Institutional Costs (from Withdrawal Record) (A)	=	3788	Total Aid Paid to Inst. Costs* (also from Withdrawal Record) (C)	=	1702	Scheduled Cash Payment (SCP) (attribution not allowable)	=	500	Student's Cash Paid (from Withdrawal Record)	=	1202	UNPAID CHARGES
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=	1202	UNPAID CHARGES (from Step One)														
=	3739	AMOUNT RETAINED														
<div style="background-color: black; color: white; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">STEP THREE</div> <p style="font-size: 1.2em; text-align: center;">Refund Amount</p> <p style="font-size: 0.8em;">Generally, funds must be returned to the appropriate program account(s) within 30 days of the date of withdrawal, and to the lender within 60 days of the same.</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; text-align: center;">—</td> <td style="width: 30%; text-align: right; font-size: 1.2em;">4288</td> <td style="width: 60%;">Total Paid to Institutional Costs (from Withdrawal Record) (D)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">3739</td> <td>Amount Retained (from Step Two)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em; border-top: 1px solid black;">549</td> <td>REFUND AMOUNT TO BE DISTRIBUTED</td> </tr> </table>	—	4288	Total Paid to Institutional Costs (from Withdrawal Record) (D)	=	3739	Amount Retained (from Step Two)	=	549	REFUND AMOUNT TO BE DISTRIBUTED						
—	4288	Total Paid to Institutional Costs (from Withdrawal Record) (D)														
=	3739	Amount Retained (from Step Two)														
=	549	REFUND AMOUNT TO BE DISTRIBUTED														

REFUND DISTRIBUTION—Prescribed by Law and Regulation

TOTAL REFUND	549
1. Federal SLS Loan	
2. Unsubsidized Federal Stafford Loan	
3. Subsidized Federal Stafford Loan	549
4. Federal PLUS Loan	
5. Unsubsidized Federal Direct Stafford Loan	
6. Subsidized Federal Direct Stafford Loan	
7. Federal Direct PLUS Loan	
8. Federal Perkins Loan	
9. Federal Pell Grant	
10. FSEOG	
11. Other Title IV Aid Programs	
12. Other Federal, state, private, or institutional aid	
13. The student	

REPAYMENT CALCULATION WORKSHEET

STEP ONE

Living Expenses Incurred

Because schools' repayment policies differ, this step can be calculated two ways: the total noninstitutional costs ("B" from Withdrawal Record) may be retained at a flat percentage, or the itemized costs (listed on Withdrawal Record) may be retained at differing rates and then totalled.

	NONINST. COSTS (from Withdrawal Record)	EXPENSES ACTUALLY INCURRED (from school's repayment policy)	
Room & Board.....	X	=	
Books & Supplies.....	X	=	
Transportation.....	X	=	
Personal/Living/Misc.....	X	=	
TOTAL COSTS (B)	X	=	TOTAL INCURRED

STEP TWO

Cash Paid to Student

*FFEL and Direct Loan funds are excluded from repayment—the student is already obligated to repay these funds to the lender.

	Total Aid Paid as Cash (from Withdrawal Record) (E)
	Cash Paid from FFEL/Direct Funds
	TOTAL CASH DISBURSED

STEP THREE

Repayment Amount

Funds must be returned to the appropriate program account(s) within 30 days of the student's repayment to the school.

	Total Cash Paid to Student (from Step Two)
	Total Costs Incurred (from Step One)
	REPAYMENT AMOUNT TO BE DISTRIBUTED

If this amount is less than \$100, the student owes no repayment.

NO REPAYMENT—No Cash Disbursed

REPAYMENT DISTRIBUTION—Prescribed by Regulation

TOTAL REPAYMENT

1. Federal Perkins Loan.....
2. Federal Pell Grant.....
3. FSEOG.....
4. Other Title IV Aid Programs.....
5. Other Federal, State, private, or institutional aid.....

NOTE: This State calculation treats unpaid charges as required by regulation.

Case Study #2

- Term school
- Nonpro rata refund
- No unpaid charges due

SCHOOL PROFILE

Buchanan Community College offers one- and two-year programs on a quarter term system. BCC participates in the Pell and FFEL programs. There is no on-campus housing; books can be purchased at any local bookstore. Each quarter is 11 weeks and BCC's refund policy is based on State law:

Student Completes:	School Retains:
Less than 15%	20%
16-30%	45%
31-50%	65%
51-80%	85%
81% or more	100% (No refund)

(In accordance with the law, students who don't begin classes receive a full refund.) For students who begin classes, 50% of the books and supplies allowance is considered incurred (in keeping with the local bookstores' return policies). Other living expenses are prorated based on the percentage of the term completed. BCC has all student loans disbursed by quarter, rather than in only two disbursements.

STUDENT PROFILE

Terry Christiansen enrolled as a sophomore for the Fall Quarter at BCC. He rented an off-campus apartment, and his costs for the quarter are as follows (institutional costs are asterisked):

Tuition & Fees*	\$650
Room & Board	\$1100
Books & Supplies	\$210
Transportation	\$300
Personal Expenses	\$450

Terry received the following financial aid for the academic year:

Federal Pell	\$2200
Federal Stafford	\$2625
State Grant (non-SSIG)	\$1000

Classes started on August 29, and Terry withdrew unofficially during the term. At the end of the quarter, BCC records showed that Terry took an exam on September 18. With no further record of attendance for Terry, BCC used that date as Terry's last date of attendance.

DISBURSEMENTS AND PAYMENTS

BCC received Terry's State grant disbursement of \$334 and credited it to his account. When his \$814 Stafford disbursement came in, \$316 went to the school account and the rest was paid to Terry in cash. The \$734 Pell disbursement was also paid in cash to Terry.

IMPORTANT POINTS

Because he is not a first-time student, a statutory pro rata calculation is not required for Terry. In completing the WR, BCC uses the costs and aid received for the quarter. (The origination and insurance fees have been deducted from the Stafford amount reported on the WR.)

Because Terry's financial aid paid his institutional costs, there are no unpaid charges. In the repayment calculation, living expenses incurred are calculated using the rates specified in the school's policy, based on the number of weeks Terry attended. It is BCC's policy to count a 4-day week as a full week, so Terry attended 3 weeks. (To figure the percentage incurred, BCC uses a ratio of weeks completed ÷ total weeks in enrollment period, or $3 \div 11$, which equals 27%. This percentage is used on the Repayment Calculation Worksheet, for all living expenses except books & supplies, which were incurred at the rate of 50% as noted in the School Profile above.)

WITHDRAWAL RECORD

1. Student Information

<u>Terry Christiansen</u>	<u>8/30</u>	<u>UNOFFICIAL—9/18</u>
Name	Start Date	Withdrawal Date/LDA
<u>000-00-0000</u>	<u>11-week quarter</u>	<u>11/15</u>
Social Security Number	Length of Enrollment Period	Date of WD/LDA Determination

2. Program Costs

	non- inst.		inst.		non- inst.		inst.		non- inst.	
✓		Tuition/Fees	✓		Personal/Living					
		Administrative Fee			Dependent Care					
	✓	Room & Board			Disability Costs					
	✓	Books & Supplies			Miscellaneous					
	✓	Transportation			Miscellaneous					

USE TOTALS FOR PERIOD CHARGED*

TOTAL Inst. Costs: 650 **A**

TOTAL Noninst. Costs: 2060 **B**

TOTAL Aid Paid To Inst. Costs: 650 **C**

TOTAL Paid To Inst. Costs: 650 **D**

TOTAL Aid Paid as Cash: 1232 **E**

3. Payments/Disbursements

	DATE	SOURCE	Paid to Inst. Costs	Cash to Student		DATE	SOURCE	Paid to Inst. Costs	Cash to Student
(Exclude work-study awards.)		<u>State</u>	<u>334</u>						
		<u>Stafford</u>	<u>316</u>	<u>498</u>					
		<u>Pell</u>		<u>734</u>					

***USE TOTALS AS CHARGED FOR THE ENROLLMENT PERIOD** (The following minimums apply: for term programs, use totals for the term; for all nonterm programs longer than or equal to the academic year, use totals for the payment period or for one-half of the academic year, whichever is greater. For all nonterm programs shorter than the academic year, use totals for the program length. If you charge by different periods for different charges, convert all totals to represent the longest period.)

4. Data for Pro Rata and Federal Refund

IS THIS STUDENT A FIRST-TIME STUDENT? A first-time student is one who has not previously attended at least one class at this school, or has received a 100 percent refund (less any permitted administrative fee) for previous attendance. (A first-time student remains so until he or she withdraws after attending at least one class at the school or completes the period of enrollment.) YES NO

DID THIS STUDENT WITHDRAW ON OR BEFORE THE 60% POINT? For credit-hour programs, the 60% point is the point in calendar time when 60% of the enrollment period has elapsed. For clock-hour programs, it is the point when this particular student completes 60% of the hours scheduled for the enrollment period. YES NO

IF THE ANSWER TO BOTH QUESTIONS IS "YES," a statutory pro rata refund calculation is required for this student. For this calculation, you must determine the Portion That Remains (of the enrollment period) and the institutional costs that may be excluded, if any.

TO DETERMINE THE PORTION THAT REMAINS, calculate as follows and round **DOWN** to the nearest 10%:

•For credit-hour programs:

$$\frac{\text{WEEKS REMAINING}}{\text{TOTAL WEEKS IN PERIOD}} = \dots\dots\dots$$

•For clock-hour programs:*

$$\frac{\text{HOURS REMAINING}}{\text{TOTAL HOURS IN PERIOD}} = \dots\dots\dots$$

•For correspondence programs:

$$\frac{\text{LESSONS NOT SUBMITTED}}{\text{TOTAL LESSONS IN PERIOD}} = \dots\dots\dots$$

*DO NOT use scheduled hours. Also, excused absences can count as "hours completed."

TO DETERMINE EXCLUDABLE INSTITUTIONAL COSTS:

•Administrative Fee (up to \$100 or 5%, whichever is less)	+
•Documented Cost of Unreturnable Equipment	+
•Documented Cost of Returnable Equipment (if not returned in good condition within 20 days of withdrawal)	+
TOTAL EXCLUDABLE INST. COSTS (for Pro Rata and Federal Refund calculations only):	=

Pro Rata/Federal Refund Institutional Costs:

A — A1 = A1

Total Institutional Costs Total Excludable Inst. Costs

REFUND CALCULATION WORKSHEET

<div style="background-color: black; color: white; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">STEP ONE</div> <p style="text-align: center; font-size: 1.2em;">Unpaid Charges</p> <p style="font-size: 0.8em;">*Scheduled SFA payments and FFEL/Direct late disbursements that have not yet been received, for which the student is still eligible in spite of having withdrawn, must be counted to reduce the student's scheduled cash payment. This includes late State aid disbursements as allowed under written State policy. (Scheduled payments from sources other than those above cannot be counted in this manner.)</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; text-align: center;">—</td> <td style="width: 15%; text-align: right; font-size: 1.2em;">650</td> <td style="width: 65%;">Total Institutional Costs (from Withdrawal Record)</td> <td style="width: 10%; text-align: center; font-weight: bold;">A</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">650</td> <td>Total Aid Paid to Inst. Costs* (also from Withdrawal Record)</td> <td style="text-align: center; font-weight: bold;">C</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">0</td> <td>Scheduled Cash Payment (SCP) (attribution not allowable)</td> <td></td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">0</td> <td>Student's Cash Paid (from Withdrawal Record)</td> <td></td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">0</td> <td>UNPAID CHARGES</td> <td></td> </tr> </table>	—	650	Total Institutional Costs (from Withdrawal Record)	A	=	650	Total Aid Paid to Inst. Costs* (also from Withdrawal Record)	C	=	0	Scheduled Cash Payment (SCP) (attribution not allowable)		=	0	Student's Cash Paid (from Withdrawal Record)		=	0	UNPAID CHARGES	
—	650	Total Institutional Costs (from Withdrawal Record)	A																		
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<div style="background-color: black; color: white; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">STEP TWO</div> <p style="text-align: center; font-size: 1.2em;">Amount Retained</p> <p style="font-size: 0.8em;">*Use the percentage specified by the State, accrediting agency, Federal Refund Calculation, or institutional refund policy being used for this calculation. For first-time students who withdraw on or before the 60% point in the enrollment period (see Withdrawal Record for details), a statutory <i>pro rata</i> refund must also be calculated. For every student receiving SFA funds, the school must compare the possible refunds and use the calculation that provides the largest refund.</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; text-align: center;">—</td> <td style="width: 15%; text-align: right; font-size: 1.2em;">650</td> <td style="width: 65%;">Total Institutional Costs (from Withdrawal Record)</td> <td style="width: 10%; text-align: center; font-weight: bold;">A</td> </tr> <tr> <td style="text-align: center;">X</td> <td style="text-align: right; font-size: 1.2em;">45%</td> <td>% Allowed to Retain* (from refund policy being used)</td> <td></td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">293</td> <td>Initial Amount Retained By The School</td> <td></td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">0</td> <td>UNPAID CHARGES (from Step One)</td> <td></td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">293</td> <td>AMOUNT RETAINED</td> <td></td> </tr> </table> <p style="font-size: 0.7em; margin-top: 5px;">If this amount is zero or negative, all SFA paid to school charges must be returned (exc. FWS).</p>	—	650	Total Institutional Costs (from Withdrawal Record)	A	X	45%	% Allowed to Retain* (from refund policy being used)		=	293	Initial Amount Retained By The School		=	0	UNPAID CHARGES (from Step One)		=	293	AMOUNT RETAINED	
—	650	Total Institutional Costs (from Withdrawal Record)	A																		
X	45%	% Allowed to Retain* (from refund policy being used)																			
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<div style="background-color: black; color: white; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">STEP THREE</div> <p style="text-align: center; font-size: 1.2em;">Refund Amount</p> <p style="font-size: 0.8em;">Generally, funds must be returned to the appropriate program account(s) within 30 days of the date of withdrawal, and to the lender within 60 days of the same.</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; text-align: center;">—</td> <td style="width: 15%; text-align: right; font-size: 1.2em;">650</td> <td style="width: 65%;">Total Paid to Institutional Costs (from Withdrawal Record)</td> <td style="width: 10%; text-align: center; font-weight: bold;">D</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">293</td> <td>Amount Retained (from Step Two)</td> <td></td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">357</td> <td>REFUND AMOUNT TO BE DISTRIBUTED</td> <td></td> </tr> </table>	—	650	Total Paid to Institutional Costs (from Withdrawal Record)	D	=	293	Amount Retained (from Step Two)		=	357	REFUND AMOUNT TO BE DISTRIBUTED									
—	650	Total Paid to Institutional Costs (from Withdrawal Record)	D																		
=	293	Amount Retained (from Step Two)																			
=	357	REFUND AMOUNT TO BE DISTRIBUTED																			

REFUND DISTRIBUTION—Prescribed by Law and Regulation

TOTAL REFUND	357
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<ol style="list-style-type: none"> 1. Federal SLS Loan 2. Unsubsidized Federal Stafford Loan 3. Subsidized Federal Stafford Loan 357 4. Federal PLUS Loan 5. Unsubsidized Federal Direct Stafford Loan 6. Subsidized Federal Direct Stafford Loan 7. Federal Direct PLUS Loan 	<ol style="list-style-type: none"> 8. Federal Perkins Loan 9. Federal Pell Grant 10. FSEOG 11. Other Title IV Aid Programs 12. Other Federal, state, private, or institutional aid 13. The student
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REPAYMENT CALCULATION WORKSHEET

STEP ONE

Living Expenses Incurred

Because schools' repayment policies differ, this step can be calculated two ways: the total noninstitutional costs ("B" from Withdrawal Record) may be retained at a flat percentage, or the itemized costs (listed on Withdrawal Record) may be retained at differing rates and then totalled.

	NONINST. COSTS (from Withdrawal Record)			EXPENSES ACTUALLY INCURRED (from school's repayment policy)
Room & Board	1100 X		27%	= 297
Books & Supplies	210 X		50%	= 105
Transportation	300 X		27%	= 81
Personal/Living/Misc.	450 X		27%	= 122
TOTAL COSTS (B)	X		=	605 TOTAL INCURRED

STEP TWO

Cash Paid to Student

*FFEL and Direct Loan funds are excluded from repayment—the student is already obligated to repay these funds to the lender.

1232	Total Aid Paid as Cash (from Withdrawal Record) (E)
498	Cash Paid from FFEL/Direct Funds
734	TOTAL CASH DISBURSED

STEP THREE

Repayment Amount

Funds must be returned to the appropriate program account(s) within 30 days of the student's repayment to the school.

734	Total Cash Paid to Student (from Step Two)
605	Total Costs Incurred (from Step One)
129	REPAYMENT AMOUNT TO BE DISTRIBUTED

If this amount is less than \$100, the student owes no repayment.

REPAYMENT DISTRIBUTION—Prescribed by Regulation

TOTAL REPAYMENT 129

1. Federal Perkins Loan

2. Federal Pell Grant 129

3. FSEOG

4. Other Title IV Aid Programs

5. Other Federal, State, private, or institutional aid

Case Study #3

- Non-term school
- Statutory pro rata refund
- Unpaid charges due

SCHOOL PROFILE

Copperfield Technical Institute offers 900 and 1200 clock-hour programs, and charges for the entire program at the time of enrollment. CTI participates in the Pell and FFEL programs. The 900-hour program lasts 30 weeks (an academic year) and is divided into two payment periods, 450 hours each. The 1200-hour program is 40 weeks long and is divided into three payment periods: 450 hours, 450 hours, and 300 hours. CTI uses its State refund guidelines:

Student Completes:	School Retains:
Less than 10%	40%
11-30%	60%
31-50%	80%
51% or more	100% (No refund)

(In accordance with the law, students who don't begin classes receive a full refund.) For students who begin classes, 50% of the books and supplies allowance is considered incurred, in keeping with the local bookstores' return policies. Other living expenses are prorated based on the percentage of the program completed.

STUDENT PROFILE

Wendy Loggins enrolled in a 900-hour program at Copperfield. She rents an apartment, and her costs for the program are as follows (institutional costs are asterisked):

Tuition & Fees*	\$4500
Room & Board	\$2730
Books & Supplies	\$630
Transportation	\$900
Personal Expenses	\$1350

Wendy received the following financial aid for the academic year:

Federal Pell	\$2300
Federal Stafford	\$2625
Federal PLUS	\$3600

Wendy began her program on October 2 and officially withdrew on February 18 of the next year, after completing 450 clock hours (50% of the program). CTI calculated both a State refund and a statutory pro rata refund, and found that the statutory pro rata refund was the largest.

DISBURSEMENTS AND PAYMENTS

Wendy's Stafford disbursement of \$1221 went to pay school charges, as did the Pell disbursement of \$1150 and the PLUS disbursement of \$1674. The school did not disburse any cash to Wendy.

IMPORTANT POINTS

In completing the WR for a statutory pro rata calculation, CTI uses the costs and amounts paid for the entire program (which is the enrollment period).

Wendy has an unpaid balance, but it will be treated differently under the statutory pro rata calculation—unpaid charges are subtracted from the initial refund amount. No repayment is calculated because no cash was disbursed. The refund is distributed first to Stafford and then to PLUS.

WITHDRAWAL RECORD

1. Student Information

Wendy Loggins *10/04* *OFFICIAL—2/18*
 Name Start Date Withdrawal Date/LDA
000-00-0000 *900-hr/30-wk. acad year* *2/18*
 Social Security Number Length of Enrollment Period Date of WD/LDA Determination

2. Program Costs

<table border="0" style="width: 100%;"> <tr> <td style="width: 10%; text-align: center;">inst. <input checked="" type="checkbox"/></td> <td style="width: 10%; text-align: center;">non-inst. <input type="checkbox"/></td> <td style="width: 80%;">Tuition/Fees <u>4500</u></td> </tr> <tr> <td></td> <td></td> <td>Administrative Fee _____</td> </tr> <tr> <td></td> <td><input checked="" type="checkbox"/></td> <td>Room & Board <u>2730</u></td> </tr> <tr> <td></td> <td><input checked="" type="checkbox"/></td> <td>Books & Supplies <u>630</u></td> </tr> <tr> <td></td> <td><input checked="" type="checkbox"/></td> <td>Transportation <u>900</u></td> </tr> </table>	inst. <input checked="" type="checkbox"/>	non-inst. <input type="checkbox"/>	Tuition/Fees <u>4500</u>			Administrative Fee _____		<input checked="" type="checkbox"/>	Room & Board <u>2730</u>		<input checked="" type="checkbox"/>	Books & Supplies <u>630</u>		<input checked="" type="checkbox"/>	Transportation <u>900</u>	<table border="0" style="width: 100%;"> <tr> <td style="width: 10%; text-align: center;">inst. <input type="checkbox"/></td> <td style="width: 10%; text-align: center;">non-inst. <input checked="" type="checkbox"/></td> <td style="width: 80%;">Personal/Living <u>1350</u></td> </tr> <tr> <td></td> <td></td> <td>Dependent Care _____</td> </tr> <tr> <td></td> <td></td> <td>Disability Costs _____</td> </tr> <tr> <td></td> <td></td> <td>Miscellaneous _____</td> </tr> <tr> <td></td> <td></td> <td>Miscellaneous _____</td> </tr> </table>	inst. <input type="checkbox"/>	non-inst. <input checked="" type="checkbox"/>	Personal/Living <u>1350</u>			Dependent Care _____			Disability Costs _____			Miscellaneous _____			Miscellaneous _____
inst. <input checked="" type="checkbox"/>	non-inst. <input type="checkbox"/>	Tuition/Fees <u>4500</u>																													
		Administrative Fee _____																													
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inst. <input type="checkbox"/>	non-inst. <input checked="" type="checkbox"/>	Personal/Living <u>1350</u>																													
		Dependent Care _____																													
		Disability Costs _____																													
		Miscellaneous _____																													
		Miscellaneous _____																													

USE TOTALS FOR PERIOD CHARGED*

TOTAL Inst. Costs: **4500** **A**

TOTAL Noninst. Costs: **5610** **B**

3. Payments/Disbursements

	DATE	SOURCE	Paid to Inst. Costs	Cash to Student		DATE	SOURCE	Paid to Inst. Costs	Cash to Student
(Exclude work-study awards.)		<i>Stafford</i>	<i>1221</i>						
		<i>Pell</i>	<i>1150</i>						
		<i>PLUS</i>	<i>1674</i>						

TOTAL Aid Paid To Inst. Costs: **4045** **C**

TOTAL Paid To Inst. Costs: **4045** **D**

TOTAL Aid Paid as Cash: **0** **E**

***USE TOTALS AS CHARGED FOR THE ENROLLMENT PERIOD** (The following minimums apply: for term programs, use totals for the term; for all nonterm programs longer than or equal to the academic year, use totals for the payment period or for one-half of the academic year, whichever is greater. For all nonterm programs shorter than the academic year, use totals for the program length. If you charge by different periods for different charges, convert all totals to represent the longest period.)

4. Data for Pro Rata and Federal Refund

IS THIS STUDENT A FIRST-TIME STUDENT? A first-time student is one who has not previously attended at least one class at this school, or has received a 100 percent refund (less any permitted administrative fee) for previous attendance. (A first-time student remains so until he or she withdraws after attending at least one class at the school or completes the period of enrollment.)

YES NO

DID THIS STUDENT WITHDRAW ON OR BEFORE THE 60% POINT? For credit-hour programs, the 60% point is the point in calendar time when 60% of the enrollment period has elapsed. For clock-hour programs, it is the point when this particular student completes 60% of the hours scheduled for the enrollment period.

YES NO

IF THE ANSWER TO BOTH QUESTIONS IS "YES," a statutory pro rata refund calculation is required for this student. For this calculation, you must determine the Portion That Remains (of the enrollment period) and the institutional costs that may be excluded, if any.

TO DETERMINE THE PORTION THAT REMAINS, calculate as follows and round DOWN to the nearest 10%:

- For credit-hour programs:

$$\frac{\text{WEEKS REMAINING}}{\text{TOTAL WEEKS IN PERIOD}} = \dots\dots\dots$$
- For clock-hour programs: *

$$\frac{\text{HOURS REMAINING}}{\text{TOTAL HOURS IN PERIOD}} = \frac{450}{900}$$
- For correspondence programs:

$$\frac{\text{LESSONS NOT SUBMITTED}}{\text{TOTAL LESSONS IN PERIOD}} = \dots\dots\dots$$

TO DETERMINE EXCLUDABLE INSTITUTIONAL COSTS:

- Administrative Fee (up to \$100 or 5%, whichever is less) +
- Documented Cost of Unreturnable Equipment + 0
- Documented Cost of Returnable Equipment (if not returned in good condition within 20 days of withdrawal) +

TOTAL EXCLUDABLE INST. COSTS (for Pro Rata and Federal Refund calculations only): = _____

Pro Rata/Federal Refund Institutional Costs:

4500 **A** - 0 = **4500** **A1**

Total Institutional Costs Total Excludable Inst. Costs

*DO NOT use scheduled hours. Also, excused absences can count as "hours completed."

PRO RATA REFUND CALCULATION WORKSHEET

STEP ONE

Unpaid Charges

*Scheduled SFA payments and FFEL/Direct late disbursements that have not yet been received, for which the student is still eligible in spite of having withdrawn, must be counted to reduce the student's scheduled cash payment. This includes late State aid disbursements as allowed under written State policy. (Scheduled payments from sources other than those above cannot be counted in this manner.)

	4500	Total Institutional Costs (from Withdrawal Record)	(A)
—	4045	Total Aid Paid to Inst. Costs* (also from Withdrawal Record)	(C)
—	455	Student's Scheduled Cash Payment (SCP)	
—	0	Student's Cash Paid (from Withdrawal Record)	
—	455	UNPAID CHARGES	

STEP TWO

Refund Amount

Generally, funds must be returned to the appropriate program account(s) within 30 days of the date of withdrawal, and to the lender within 60 days of the same.

	4500	Pro Rata Institutional Costs (from Withdrawal Record)	(A1)
X	50%	% to be Refunded (from the Portion That Remains)	
—	2250	Initial Refund Amount	
—	455	Unpaid Charges (from Step One)	
—	1795	ACTUAL REFUND TO BE DISTRIBUTED	

If this amount is negative, the school may bill the student for that amount. No refund is due.

REFUND DISTRIBUTION—Prescribed by Law and Regulation

TOTAL REFUND 1795	
<ul style="list-style-type: none"> 1. Federal SLS Loan 2. Unsubsidized Federal Stafford Loan 3. Subsidized Federal Stafford Loan 1221 4. Federal PLUS Loan 574 5. Unsubsidized Federal Direct Stafford Loan 6. Subsidized Federal Direct Stafford Loan 7. Federal Direct PLUS Loan 	<ul style="list-style-type: none"> 8. Federal Perkins Loan 9. Federal Pell Grant 10. FSEOG 11. Other Title IV Aid Programs 12. Other Federal, state, private, or institutional aid 13. The student

REPAYMENT CALCULATION WORKSHEET

STEP ONE

Living Expenses Incurred

Because schools' repayment policies differ, this step can be calculated two ways: the total noninstitutional costs ("B" from Withdrawal Record) may be retained at a flat percentage, or the itemized costs (listed on Withdrawal Record) may be retained at differing rates and then totalled.

	NONINST. COSTS (from Withdrawal Record)	EXPENSES ACTUALLY INCURRED (from school's repayment policy)
Room & Board	X	=
Books & Supplies	X	=
Transportation	X	=
Personal/Living/Misc.	X	=
TOTAL COSTS (B)	X	=
		TOTAL INCURRED

STEP TWO

Cash Paid to Student

*FFEL and Direct Loan funds are excluded from repayment—the student is already obligated to repay these funds to the lender.

	Total Aid Paid as Cash (from Withdrawal Record) (E)
	Cash Paid from FFEL/Direct Funds
	TOTAL CASH DISBURSED

STEP THREE

Repayment Amount

Funds must be returned to the appropriate program account(s) within 30 days of the student's repayment to the school.

	Total Cash Paid to Student (from Step Two)
	Total Costs Incurred (from Step One)
	REPAYMENT AMOUNT TO BE DISTRIBUTED

If this amount is less than \$100, the student owes no repayment.

NO REPAYMENT—No Cash Disbursed

REPAYMENT DISTRIBUTION—Prescribed by Regulation

TOTAL REPAYMENT

1. Federal Perkins Loan
2. Federal Pell Grant
3. FSEOG
4. Other Title IV Aid Programs
5. Other Federal, State, private, or institutional aid

Case Study #4

- Non-term school
- Federal Refund Calculation
- Unpaid charges due

SCHOOL PROFILE

Copperfield Technical Institute offers 900 and 1200 clock-hour programs, and charges for the entire program at the time of enrollment. CTI participates in the Pell and FFEL programs. The 900-hour program lasts 30 weeks (an academic year) and is divided into two payment periods, 450 hours each. The 1200-hour program is 40 weeks long and is divided into three payment periods: 450 hours, 450 hours, and 300 hours. CTI's institutional refund policy is as follows:

Student Completes:	School Retains:
Less than 10%	40%
11-30%	60%
31-50%	80%
51% or more	100% (No refund)

(In accordance with the law, students who don't begin classes receive a full refund.) For students who begin classes, 50% of the books and supplies allowance is considered incurred, in keeping with the local bookstores' return policies. Other living expenses are prorated based on the percentage of the program completed.

STUDENT PROFILE

Tom Servo enrolled as a sophomore in a 1200-hour program at Copperfield. He lives at home with his parents, and his costs for the program are as follows (institutional costs are asterisked):

Tuition & Fees*	\$6000
Room & Board	\$3640
Books & Supplies	\$850
Transportation	\$1200
Personal Expenses	\$1850

Tom received the following financial aid for the academic year:

Federal Pell	\$2300
Federal Stafford	\$2625
Federal PLUS	\$4000

Tom began his program on January 11 and last attended class on May 3, after completing 420 clock hours (35% of the program). There is no state or accrediting agency policy, and pro rata does not apply, so CTI compared its institutional refund to the Federal Refund Policy. The Federal Refund was larger.

DISBURSEMENTS AND PAYMENTS

Tom's Pell disbursement of \$1150 was applied to school charges, as were the first disbursements of both the Stafford and the PLUS loans, in the amounts of \$928 and \$1414 respectively (CTI requested that the lender disburse by payment period). No cash was disbursed.

IMPORTANT POINTS

Because he is not a first-time student, a statutory pro rata calculation is not required for Tom. Because CTI is located in a State that does not have a refund policy, and CTI's accrediting agency's policy has not been approved by the Department, CTI must compare its institutional refund policy to the Federal Refund Calculation to determine the largest available refund. In Tom's case, the Federal Refund Calculation resulted in a larger refund.

In completing the WR, CTI uses the costs and amounts paid for the entire program. Tom withdrew after completing 35% of the enrollment period (after the first 25% but before the first 50% of the period), so he is due a 25% refund of his institutional charges. (CTI can exclude a \$100 administrative fee before assessing the 25%.) No repayment is calculated because no cash was disbursed.

WITHDRAWAL RECORD

1. Student Information

Tom Servo 1/11 UNOFFICIAL—5/03
 Name Start Date Withdrawal Date/LDA
000-00-0000 1200-hr program 10/18
 Social Security Number Length of Enrollment Period Date of WD/LDA Determination

2. Program Costs

<table border="0" style="width: 100%;"> <tr> <td style="width: 10%;"><input checked="" type="checkbox"/></td> <td style="width: 10%;">non- inst.</td> <td style="width: 10%;"></td> </tr> <tr> <td></td> <td></td> <td>Tuition/Fees</td> <td>6000</td> <td></td> <td></td> <td>Personal/Living</td> <td>1850</td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td>Administrative Fee</td> <td></td> <td></td> <td></td> <td>Dependent Care</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td><input checked="" type="checkbox"/></td> <td>Room & Board</td> <td>3640</td> <td></td> <td></td> <td>Disability Costs</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td><input checked="" type="checkbox"/></td> <td>Books & Supplies</td> <td>850</td> <td></td> <td></td> <td>Miscellaneous</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td><input checked="" type="checkbox"/></td> <td>Transportation</td> <td>1200</td> <td></td> <td></td> <td>Miscellaneous</td> <td></td> <td></td> <td></td> </tr> </table>	<input checked="" type="checkbox"/>	non- inst.											Tuition/Fees	6000			Personal/Living	1850					Administrative Fee				Dependent Care					<input checked="" type="checkbox"/>	Room & Board	3640			Disability Costs					<input checked="" type="checkbox"/>	Books & Supplies	850			Miscellaneous					<input checked="" type="checkbox"/>	Transportation	1200			Miscellaneous				<table border="0" style="width: 100%;"> <tr> <td style="width: 10%;"></td> <td style="width: 10%;">non- inst.</td> <td style="width: 10%;"></td> </tr> <tr> <td></td> <td></td> <td>Personal/Living</td> <td>1850</td> <td></td> <td></td> <td>Dependent Care</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td>Dependent Care</td> <td></td> <td></td> <td></td> <td>Disability Costs</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td>Disability Costs</td> <td></td> <td></td> <td></td> <td>Miscellaneous</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td>Miscellaneous</td> <td></td> <td></td> <td></td> <td>Miscellaneous</td> <td></td> <td></td> <td></td> </tr> </table>		non- inst.											Personal/Living	1850			Dependent Care						Dependent Care				Disability Costs						Disability Costs				Miscellaneous						Miscellaneous				Miscellaneous			
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USE TOTALS FOR PERIOD CHARGED*

TOTAL Inst. Costs:

6000 **A**

TOTAL Noninst. Costs:

7540 **B**

TOTAL Aid Paid To Inst. Costs:

3492 **C**

TOTAL Paid To Inst. Costs:

3492 **D**

TOTAL Aid Paid as Cash:

0 **E**

3. Payments/Disbursements

(Exclude work-study awards.)

DATE	SOURCE	Paid to Inst. Costs	Cash to Student	DATE	SOURCE	Paid to Inst. Costs	Cash to Student
	<u>Stafford</u>	<u>928</u>					
	<u>Pell</u>	<u>1150</u>					
	<u>PLUS</u>	<u>1414</u>					

***USE TOTALS AS CHARGED FOR THE ENROLLMENT PERIOD** (The following minimums apply: for term programs, use totals for the term; for all nonterm programs longer than or equal to the academic year, use totals for the payment period or for one-half of the academic year, whichever is greater. For all nonterm programs shorter than the academic year, use totals for the program length. If you charge by different periods for different charges, convert all totals to represent the longest period.)

4. Data for Pro Rata and Federal Refund

IS THIS STUDENT A FIRST-TIME STUDENT? A first-time student is one who has not previously attended at least one class at this school, or has received a 100 percent refund (less any permitted administrative fee) for previous attendance. (A first-time student remains so until he or she withdraws after attending at least one class at the school or completes the period of enrollment.)

YES NO

DID THIS STUDENT WITHDRAW ON OR BEFORE THE 60% POINT? For credit-hour programs, the 60% point is the point in calendar time when 60% of the enrollment period has elapsed. For clock-hour programs, it is the point when this particular student completes 60% of the hours scheduled for the enrollment period.

YES NO

IF THE ANSWER TO BOTH QUESTIONS IS "YES," a statutory pro rata refund calculation is required for this student. For this calculation, you must determine the Portion That Remains (of the enrollment period) and the institutional costs that may be excluded, if any.

TO DETERMINE THE PORTION THAT REMAINS, calculate as follows and round DOWN to the nearest 10%:

- For credit-hour programs:

$$\frac{\text{WEEKS REMAINING}}{\text{TOTAL WEEKS IN PERIOD}} = \dots\dots\dots$$
- For clock-hour programs*:

$$\frac{\text{HOURS REMAINING}}{\text{TOTAL HOURS IN PERIOD}} = \dots\dots\dots$$
- For correspondence programs:

$$\frac{\text{LESSONS NOT SUBMITTED}}{\text{TOTAL LESSONS IN PERIOD}} = \dots\dots\dots$$

TO DETERMINE EXCLUDABLE INSTITUTIONAL COSTS:

- Administrative Fee (up to \$100 or 5%, whichever is less) + 100
- Documented Cost of Unreturnable Equipment +
- Documented Cost of Returnable Equipment (if not returned in good condition within 20 days of withdrawal) +

TOTAL EXCLUDABLE INST. COSTS (for Pro Rata and Federal Refund calculations only): = 100

Pro Rata/Federal Refund Institutional Costs:

6000 **A** - 100 = 5900 **A1**

Total Institutional Costs Total Excludable Inst. Costs

*DO NOT use scheduled hours. Also, excused absences can count as "hours completed."

FEDERAL REFUND CALCULATION WORKSHEET

<div style="background-color: black; color: white; padding: 5px; font-weight: bold; font-size: 1.2em;">STEP ONE*</div> <div style="text-align: center; font-size: 1.2em; margin-top: 5px;">Unpaid Charges</div> <p style="font-size: 0.8em; margin-top: 10px;">*Scheduled SFA payments and FFEL/Direct late disbursements that have not yet been received, for which the student is still eligible in spite of having withdrawn, must be counted to reduce the student's scheduled cash payment. This includes late State aid disbursements as allowed under written State policy. (Scheduled payments from sources other than those above cannot be counted in this manner.)</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; text-align: center;">—</td> <td style="width: 30%; text-align: right; font-size: 1.2em;">6000</td> <td style="width: 60%;">Total Institutional Costs (from Withdrawal Record) A</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">3492</td> <td>Total Aid Paid to Inst. Costs* (also from Withdrawal Record) C</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">2508</td> <td>Scheduled Cash Payment (SCP) (attribution not allowable)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">0</td> <td>Student's Cash Paid (from Withdrawal Record)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em; border-top: 1px solid black;">2508</td> <td>UNPAID CHARGES</td> </tr> </table>	—	6000	Total Institutional Costs (from Withdrawal Record) A	=	3492	Total Aid Paid to Inst. Costs* (also from Withdrawal Record) C	=	2508	Scheduled Cash Payment (SCP) (attribution not allowable)	=	0	Student's Cash Paid (from Withdrawal Record)	=	2508	UNPAID CHARGES
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<div style="background-color: black; color: white; padding: 5px; font-weight: bold; font-size: 1.2em;">STEP TWO</div> <div style="text-align: center; font-size: 1.2em; margin-top: 5px;">Refund Amount</div> <p style="font-size: 0.8em; margin-top: 10px;">Generally, funds must be returned to the appropriate program account(s) within 30 days of the date of withdrawal, and to the lender within 60 days of the same.</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; text-align: center;">X</td> <td style="width: 30%; text-align: right; font-size: 1.2em;">5900</td> <td style="width: 60%;">Federal Refund Calculation Inst. Costs (from Withdrawal Record) A1</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em;">25%</td> <td>% to be Refunded (from the regulatory policy)</td> </tr> <tr> <td style="text-align: center;">=</td> <td style="text-align: right; font-size: 1.2em; border-top: 1px solid black;">1475</td> <td>REFUND AMOUNT TO BE DISTRIBUTED</td> </tr> </table>	X	5900	Federal Refund Calculation Inst. Costs (from Withdrawal Record) A1	=	25%	% to be Refunded (from the regulatory policy)	=	1475	REFUND AMOUNT TO BE DISTRIBUTED						
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=	25%	% to be Refunded (from the regulatory policy)														
=	1475	REFUND AMOUNT TO BE DISTRIBUTED														

***NOTE:** Because calculating a Federal Refund in this manner does not show the amount retained by the school, the subtraction of unpaid charges from that amount is also not shown. However, the unpaid charges amount must still be calculated for the student because the refund process may result in the school not keeping the full amount it is allowed to retain under the Federal Refund Policy. In such a case, the school may collect the remaining balance from the student (the unpaid charges amount).

REFUND DISTRIBUTION—Prescribed by Law and Regulation

TOTAL REFUND	1475	
1. Federal SLS Loan	.....	8. Federal Perkins Loan
2. Unsubsidized Federal Stafford Loan	.....	9. Federal Pell Grant
3. Subsidized Federal Stafford Loan	928	10. FSEOG
4. Federal PLUS Loan	547	11. Other Title IV Aid Programs
5. Unsubsidized Federal Direct Stafford Loan	.....	12. Other Federal, state, private, or institutional aid
6. Subsidized Federal Direct Stafford Loan	.....	13. The student
7. Federal Direct PLUS Loan	.....

REPAYMENT CALCULATION WORKSHEET

STEP ONE

Living Expenses Incurred

Because schools' repayment policies differ, this step can be calculated two ways: the total noninstitutional costs ("B" from Withdrawal Record) may be retained at a flat percentage, or the itemized costs (listed on Withdrawal Record) may be retained at differing rates and then totalled.

	NONINST. COSTS (from Withdrawal Record)	EXPENSES ACTUALLY INCURRED (from school's repayment policy)
Room & Board	X	=
Books & Supplies	X	=
Transportation	X	=
Personal/Living/Misc.	X	=
TOTAL COSTS (B)	X	=
		TOTAL INCURRED

STEP TWO

Cash Paid to Student

*FFEL and Direct Loan funds are excluded from repayment—the student is already obligated to repay these funds to the lender.

Total Aid Paid as Cash (from Withdrawal Record) (E)	=
Cash Paid from FFEL/Direct Funds	=
TOTAL CASH DISBURSED	=

STEP THREE

Repayment Amount

Funds must be returned to the appropriate program account(s) within 30 days of the student's repayment to the school.

Total Cash Paid to Student (from Step Two)	=
Total Costs Incurred (from Step One)	=
REPAYMENT AMOUNT TO BE DISTRIBUTED	=

If this amount is less than \$100, the student owes no repayment.

NO REPAYMENT—No Cash Disbursed

REPAYMENT DISTRIBUTION—Prescribed by Regulation

TOTAL REPAYMENT

1. Federal Perkins Loan
2. Federal Pell Grant
3. FSEOG
4. Other Title IV Aid Programs
5. Other Federal, State, private, or institutional aid

Case Study #5

- Term school
- Statutory pro rata refund
- No unpaid charges due

SCHOOL PROFILE

The Rigby Academy offers two- and four-year programs and participates in the Pell, FFEL, and campus-based programs. The academic year is divided into three quarter terms, each 10 weeks long. Rigby uses its State policy:

Student Withdraws:	School Retains:
In the first week:	10%
Second or third week:	40%
Fourth week:	75%
After fourth week:	100% (No refund)

(In accordance with the law, students who don't begin classes receive a full refund.) For students who begin classes, 50% of the books and supplies allowance is considered incurred, in keeping with the local bookstores' return policies. Other living expenses are prorated based on the percentage of the program completed. Rigby charges a \$60 administrative fee to all students; this charge is explained in the enrollment agreement.

STUDENT PROFILE

Robert Harbin enrolled in a two-year program at Rigby. His costs for the term are as follows (institutional costs are asterisked):

Tuition & Fees*	\$1200
Administrative Fee*	\$60
Room & Board	\$1000
Books & Supplies	\$205
Transportation	\$250
Personal Expenses	\$750

Robert received the following financial aid for the academic year:

Federal Pell	\$1950
Federal Stafford	\$2325
FSEOG	\$1150
Federal Perkins	\$850
Institutional Scholarship	\$600

Classes began on February 22 and Robert officially withdrew in the fifth week. Under Rigby's policy, Robert would receive no refund. However, he is entitled to a statutory pro rata refund.

DISBURSEMENTS AND PAYMENTS

Robert's \$300 cash payment and \$960 of the Stafford disbursement were credited to the school's account; the remaining \$121 of Stafford funds were disbursed in cash to Robert. Then, \$650 from Pell, \$384 from FSEOG, \$283 from Perkins, and \$200 of the institutional scholarship were also disbursed as cash to Robert.

IMPORTANT POINTS

In completing the WR for a statutory pro rata calculation, Rigby uses costs and amounts paid for the quarter. (Robert's Stafford was not disbursed by quarter, but in two equal installments instead. Even though a portion of this disbursement is intended for the second quarter, the total amount *received* must be used in the refund calculation.)

For a statutory pro rata calculation, Rigby may exclude an administrative fee up to \$100 or 5% of the total institutional costs, because they charge such a fee up front and across the board. In the repayment calculation, total non-institutional costs are assessed at a flat 50%, because in this case the same rate applies to all the items.

WITHDRAWAL RECORD

1. Student Information

<u>Robert Harbin</u>	<u>2/22</u>	<u>OFFICIAL—3/28</u>
Name	Start Date	Withdrawal Date/LDA
<u>000-00-0000</u>	<u>10-week quarter</u>	<u>3/25</u>
Social Security Number	Length of Enrollment Period	Date of WD/LDA Determination

2. Program Costs

	non- inst.			non- inst.		
✓	✓	Tuition/Fees	1200	✓	Personal/Living	750
✓	✓	Administrative Fee	60	✓	Dependent Care	
✓	✓	Room & Board	1000	✓	Disability Costs	
✓	✓	Books & Supplies	205	✓	Miscellaneous	
✓	✓	Transportation	250	✓	Miscellaneous	

USE TOTALS FOR PERIOD CHARGED*

TOTAL Inst. Costs:	1260 A
TOTAL Noninst. Costs:	2205 B
TOTAL Aid Paid To Inst. Costs:	960 C
TOTAL Paid To Inst. Costs:	1260 D
TOTAL Aid Paid as Cash:	1638 E

3. Payments/Disbursements

	DATE	SOURCE	Paid to Inst. Costs	Cash to Student		DATE	SOURCE	Paid to Inst. Costs	Cash to Student
(Exclude work-study awards.)		<u>Student</u>	<u>300</u>				<u>Inst. Aid</u>		<u>200</u>
		<u>Stafford</u>	<u>960</u>	<u>121</u>					
		<u>Pell</u>			<u>650</u>				
		<u>FSEOG</u>			<u>384</u>				
		<u>Perkins</u>			<u>283</u>				

***USE TOTALS AS CHARGED FOR THE ENROLLMENT PERIOD** (The following minimums apply: for term programs, use totals for the term; for all nonterm programs longer than or equal to the academic year, use totals for the payment period or for one-half of the academic year, whichever is greater. For all nonterm programs shorter than the academic year, use totals for the program length. If you charge by different periods for different charges, convert all totals to represent the longest period.)

4. Data for Pro Rata and Federal Refund

IS THIS STUDENT A FIRST-TIME STUDENT? A first-time student is one who has not previously attended at least one class at this school, or has received a 100 percent refund (less any permitted administrative fee) for previous attendance. (A first-time student remains so until he or she withdraws after attending at least one class at the school or completes the period of enrollment.)

YES NO

DID THIS STUDENT WITHDRAW ON OR BEFORE THE 60% POINT? For credit-hour programs, the 60% point is the point in calendar time when 60% of the enrollment period has elapsed. For clock-hour programs, it is the point when this particular student completes 60% of the hours scheduled for the enrollment period.

YES NO

IF THE ANSWER TO BOTH QUESTIONS IS "YES," a statutory pro rata refund calculation is required for this student. For this calculation, you must determine the Portion That Remains (of the enrollment period) and the institutional costs that may be excluded, if any.

TO DETERMINE THE PORTION THAT REMAINS, calculate as follows and round **DOWN** to the nearest 10%:

- For credit-hour programs:

$$\frac{\text{WEEKS REMAINING}}{\text{TOTAL WEEKS IN PERIOD}} = \frac{5}{10}$$
- For clock-hour programs:*
- For correspondence programs:

$$\frac{\text{LESSONS NOT SUBMITTED}}{\text{TOTAL LESSONS IN PERIOD}} = \dots\dots\dots$$

TO DETERMINE EXCLUDABLE INSTITUTIONAL COSTS:

- Administrative Fee (up to \$100 or 5%, whichever is less) + 60
- Documented Cost of Unreturnable Equipment +
- Documented Cost of Returnable Equipment (if not returned in good condition within 20 days of withdrawal) +

TOTAL EXCLUDABLE INST. COSTS (for Pro Rata and Federal Refund calculations only): = 60

Pro Rata/Federal Refund Institutional Costs:

1260 **A** — 60 = 1200 **A1**

Total Institutional Costs Total Excludable Inst. Costs

*DO NOT use scheduled hours. Also, excused absences can count as "hours completed."

PRO RATA REFUND CALCULATION WORKSHEET

STEP ONE

Unpaid Charges

*Scheduled SFA payments and FFEL/Direct late disbursements that have not yet been received, for which the student is still eligible in spite of having withdrawn, must be counted to reduce the student's scheduled cash payment. This includes late State aid disbursements as allowed under written State policy. (Scheduled payments from sources other than those above cannot be counted in this manner.)

	<u>1260</u>	Total Institutional Costs (from Withdrawal Record)	(A)
—	<u>960</u>	Total Aid Paid to Inst. Costs* (also from Withdrawal Record)	(C)
—	<u>300</u>	Student's Scheduled Cash Payment (SCP)	
—	<u>300</u>	Student's Cash Paid (from Withdrawal Record)	
—	<u>0</u>	UNPAID CHARGES	

STEP TWO

Refund Amount

Generally, funds must be returned to the appropriate program account(s) within 30 days of the date of withdrawal, and to the lender within 60 days of the same.

	<u>1200</u>	Pro Rata Institutional Costs (from Withdrawal Record)	(A1)
X	<u>50%</u>	% to be Refunded (from the Portion That Remains)	
—	<u>600</u>	Initial Refund Amount	
—	<u>0</u>	Unpaid Charges (from Step One)	
—	<u>600</u>	ACTUAL REFUND TO BE DISTRIBUTED	

If this amount is negative the school may bill the student for that amount. No refund is due.

REFUND DISTRIBUTION—Prescribed by Law and Regulation

TOTAL REFUND <u>600</u>	
1. Federal SLS Loan 2. Unsubsidized Federal Stafford Loan 3. Subsidized Federal Stafford Loan <u>600</u> 4. Federal PLUS Loan 5. Unsubsidized Federal Direct Stafford Loan 6. Subsidized Federal Direct Stafford Loan 7. Federal Direct PLUS Loan	8. Federal Perkins Loan 9. Federal Pell Grant 10. FSEOG 11. Other Title IV Aid Programs 12. Other Federal, state, private, or institutional aid 13. The student

REPAYMENT CALCULATION WORKSHEET

STEP ONE

Living Expenses Incurred

Because schools' repayment policies differ, this step can be calculated two ways: the total noninstitutional costs ("B" from Withdrawal Record) may be retained at a flat percentage, or the itemized costs (listed on Withdrawal Record) may be retained at differing rates and then totalled.

	NONINST. COSTS (from Withdrawal Record)	EXPENSES ACTUALLY INCURRED (from school's repayment policy)
Room & Board	X	=
Books & Supplies	X	=
Transportation	X	=
Personal/Living/Misc.	X	=
TOTAL COSTS (B)	2205 X	50% = 1103
		TOTAL INCURRED

STEP TWO

Cash Paid to Student

*FFEL and Direct Loan funds are excluded from repayment—the student is already obligated to repay these funds to the lender.

1638	Total Aid Paid as Cash (from Withdrawal Record) (E)
121	Cash Paid from FFEL/Direct Funds
1517	TOTAL CASH DISBURSED

STEP THREE

Repayment Amount

Funds must be returned to the appropriate program account(s) within 30 days of the student's repayment to the school.

1517	Total Cash Paid to Student (from Step Two)
1103	Total Costs Incurred (from Step One)
414	REPAYMENT AMOUNT TO BE DISTRIBUTED

If this amount is less than \$100, the student owes no repayment.

REPAYMENT DISTRIBUTION—Prescribed by Regulation

TOTAL REPAYMENT	414
1. Federal Perkins Loan	283
2. Federal Pell Grant	131
3. FSEOG	
4. Other Title IV Aid Programs	
5. Other Federal, State, private, or institutional aid	

This chapter provides information on the requirements for the consumer information that a school must provide to students, the Department, and others.

In addition to the disclosure of information required under the basic consumer information requirements, there are four disclosure requirements with which schools must comply: campus security, student-right-to-know (data for the general student body and data related to the awarding of athletically related student aid), equity in athletics, and requirements for schools awarding athletically related student aid. Also, schools that participate in the campus-based programs must comply with disclosure requirements for drug and alcohol abuse prevention. Although some of these disclosure requirements contain common elements, they are all required separately. (See the chart on the next page.)

Electronic Media Cite
Sec. 485(a)

In a continuing effort to reduce the number of defaulted federal student loans, it is important to provide students with information necessary to choose an appropriate academic program and to fully understand the responsibility of loan repayment. This chapter briefly addresses required loan counseling, but the loan counseling requirements are covered in detail in the Campus-Based Programs Reference, the Direct Loan and FFEL Programs Reference, and in Direct Loan entrance and exit counseling guides.

This chapter also includes a summary of the effects of misrepresentation of institutional information on a school's SFA participation.

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) include electronic media in the means a school may use to provide required consumer information to students. The Amendments also clarify that a school must make the information available upon request to both currently enrolled and prospective students. This provision is effective October 1, 1998.

Amendments
of 1998

List of Information Cite
Sec. 485(a)

Note that in some cases a school is only required to make information available upon request, while in others the school must directly distribute the required information.

Basic Consumer Information Requirements Cites
34 CFR 668.43, 668.44, 668.45

The Amendments require that each year a school must provide to enrolled students a list of the information it must disseminate under the Higher Education Act of 1965, as amended, and the Family Education Rights and Privacy Act (FERPA) and the procedures for obtaining the information. This provision is effective October 1, 1998.

SCHOOL DISCLOSURE REQUIREMENTS

Student Right-to-Know and Campus Security Act of 1990

Campus Security Final Regulations published April 29, 1994; effective July 1, 1994; Technical Corrections published June 30, 1995. **REQUIRES:** Disclosure of data on crimes committed on campus and campus safety policies and procedures.

Student Right-to-Know Final Regulations published December 1, 1995; effective July 1, 1996. **REQUIRES:** Disclosure of graduation or completion rates and transfer-out rates for 1) the general population of full-time, first-time degree or certificate-seeking, undergraduate students, and 2) students who receive athletically-related student aid, broken down by race and gender within sports.

Equity in Athletics Disclosure Act

Final Regulations published November 29, 1995; effective July 1, 1996. **REQUIRES:** Disclosure of data on participation rates and financing of men's and women's sports in intercollegiate athletic programs at coeducational schools.

ALSO REQUIRED: Data on revenues, total expenses, and operating expenses of intercollegiate athletic programs. This provision was formerly found in the Program Participation Agreement section of the law and was implemented in final regulations published April 29, 1994; effective July 1, 1994. The Amendments of 1998 moved the provision to the EADA section of the law.

BASIC CONSUMER INFORMATION REQUIREMENTS

Subpart D of the General Provisions lists basic information about the school and about financial aid that must be available to enrolled and prospective students. If necessary, these materials must be prepared by the school. However, much of the required data may already be available in brochures and handouts routinely disseminated by the school, or in federal publications such as *The Student Guide*.

Financial Aid Information

The following minimum information must be provided:

- what need-based and non-need-based federal financial aid is available to students;
- what need-based and non-need based state and local aid programs, school aid programs, and other private aid programs are available;
- how students apply for aid and how eligibility is determined;

- how the school distributes aid among students;
- the rights and responsibilities of students receiving aid;
- how and when financial aid will be disbursed;
- the terms and conditions of any employment that is part of the financial aid package;
- the terms of, schedules for, and the necessity of loan repayment and required loan exit counseling;
- the criteria for measuring satisfactory academic progress, and how a student who has failed to maintain satisfactory progress may reestablish eligibility for federal financial aid;
- information on preventing drug and alcohol abuse;
- information regarding the availability of SFA Program funds for study abroad programs; and
- that a student may be eligible for SFA Program funds for attending a study abroad program that is approved for credit by the home school.

General Information about the School

The school must provide the following minimum information about itself:

- the names of associations, agencies, and/or governmental bodies that accredit, approve, or license the school and its programs, and the procedures by which a student may receive a copy for review of the school's accreditation, licensure, or approval;
- special facilities and services available to disabled students;
- the costs of attending the school (tuition and fees, books and supplies, room and board and applicable transportation costs, such as commuting) and any additional costs of the program in which the student is enrolled or has expressed an interest;
- a statement of the requirements for the return of SFA Program funds when a student withdraws from school, information about any refund policy with which the school must comply, and the requirements for officially withdrawing from the school. This provision was modified by the Amendments to conform to changes made to the "refund" requirements. For more information, see Chapter 6.
- the degree programs, training, and other education offered;
- the availability of a GED program, if the school admits students who do not have a high school diploma or equivalent;

Amendments
of 1998

Consumer Information From the Department
Sec. 484(d)

Amendments
of 1998

- the instructional, laboratory, and other physical plant facilities associated with the academic programs;
- a list of the faculty and other instructional personnel;
- the satisfactory progress standards that must be maintained; and
- who to contact for information on student financial assistance and on general institutional issues.
- the school's campus crime report, as discussed on page 160 (the Amendments added this report to the list of general disclosures, effective October 1, 1998).

The school must have someone available during normal operating hours to help persons obtain consumer information. One full-time employee or several persons may be assigned so that someone is always available (with reasonable notice) to assist enrolled or prospective students and their families. Existing personnel may satisfy this requirement. A school may request a waiver of this requirement if it can demonstrate that a waiver is appropriate. A school should contact the Institutional Participation and Oversight Service (IPOS) for more information (see Chapter 10 for the general IPOS address).

CONSUMER INFORMATION FROM THE DEPARTMENT

Amendments
of 1998

The Department is required to make available to schools, lenders, and secondary schools descriptions of the SFA Programs in order to assist students in gaining information through institutional sources, and assist schools in carrying out the SFA Program requirements. The Department does this through a variety of informational sources such as *The Student Guide*, the Department's web page, and this Handbook.

The Amendments of 1998 added the following requirements:

- To the extent the information is available, the Department is required to compile and disseminate information describing state and other prepaid tuition and savings programs.
- The Department must update its Internet site to include direct links to databases with information on public and private financial assistance programs that are accessible without charge. The Department must make clear that linking to a database is not an endorsement of the database.
- Additional direct links must be provided by the Department to resources from which students may obtain information about fraudulent and deceptive financial aid practices; and
- The Department must make a reasonable effort to verify that linked databases do not contain fraudulent information.

The provisions are effective October 1, 1998.

JOB PLACEMENT RATES

Data to Support Placement Claims

Schools that recruit students by using marketing claims regarding job placement must substantiate such claims. At or before the time of application, the school must provide to prospective students, the most recent available data concerning employment statistics, graduation statistics, and other information necessary to substantiate its claims. As discussed in Chapter 2, if the school advertises job placement rates to attract enrollment, it must inform prospective students of the state licensing requirements for the jobs for which the students seek training.

Campus Security Cite
Sec. 485(f)

CAMPUS SECURITY

General Information

The Department of Education is committed to assisting schools in providing students with a safe environment in which to learn and to keep parents and students well informed about campus security. To this end Dear President letter ANN-96-5, issued jointly by the Department of Education, the Justice Department, and the Department of Health and Human Services in September 1996, provides suggestions to schools for use in developing and implementing a comprehensive policy to combat violence against women on campus. The letter lists the following web sites as possible resources:

- Department of Justice Violence Against Women Office:
www.usdoj.gov/vawo/
- Department of Education World Wide Web site on campus safety: www.ed.gov/offices/ope/ppi/security.html
- Higher Education Center for Alcohol and Other Prevention World Wide Web site: www.edc.org/hec/

The Department continues to be committed to the enforcement of the Campus Security Act of 1990, which requires a school to compile an annual campus security report.

“Dear Colleague” letter GEN-96-11, published May 1996, provides an overview of the campus security requirements, guidance to schools on how to receive technical assistance in administering the requirements, and the Department’s enforcement policies.

The Amendments of 1998 made several changes to the campus security requirements. General changes include:

- The portion of the law that addresses campus security issues is now called the “Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.”

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- The identification of victims or persons accused in the statistics that are included in the campus crime report is prohibited.
- The Department is required to provide technical assistance to a school in complying with these requirements at the request of the school.
- The campus security requirements may not be construed to require the reporting or disclosure of privileged information.
- The Department must report to Congress any school that the Department determines not to be in compliance with the campus crime reporting requirements.
- The Department must impose a civil penalty up to \$25,000 if the Department determines that a school has substantially misrepresented the number, location, or nature of the crimes required to be reported.
- The Amendments clarify that these provisions do not cause a liability for a school or its employees or establish standard of care.
- Evidence of compliance or noncompliance with the provisions is not admissible as evidence except for actions enforcing these requirements.

Other specific changes made by the Amendments are discussed below.

Distribution of the Campus Crime Report

By September 1 of each year, a school must publish and distribute the annual campus security report to all current students and employees directly by publications provided by hand delivery, or by mail (through the U.S. Postal Service, campus mail, or computer network). The report should be provided upon request to all prospective students and prospective employees (anyone who has contacted the school for the purpose of requesting information on employment with the school). Prospective students and prospective employees must be informed of the report's availability, must be given a summary of its contents, and must be given the opportunity to request a copy.

Amendments
of 1998

Prior to the Amendments of 1998, a school was not required to submit its annual security report to the Department unless the Department specifically requested the submission. The Amendments require schools to submit their crime statistics annually to the Department. The Department is required to make copies of these statistics available to the public and must submit to Congress a comprehensive report on crime statistics by September 1, 2000.

Definition of "Campus"

Requirements regarding the campus security report must be met individually for each separate "campus". The Amendments of 1998 have broken the old general definition of "campus" into three more specific categories: campus, noncampus buildings or property, and public property. The campus crime requirements must now be met for any location that meets one of these three definitions.



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of 1998

Campus includes

- any building or property owned or controlled by a school within the same reasonably contiguous geographic area and used by the school in direct support of or in a manner related to its educational purposes, (the Amendments of 1998 clarified that this includes residence halls), and
- property within the same reasonably contiguous geographic area that is owned by the school but controlled by another person, if it is used by students and supports the school's purposes (such as a food or other retail vendor) (this portion of the definition was added by the Amendments of 1998).

The Amendments define the term "noncampus building or property" to mean

- any building or property owned or controlled by student organizations recognized by the school, and (this was part of old general "campus" definition), and
- any building or property (other than a branch campus) owned or controlled by the school, that is NOT within the same reasonable contiguous area, is used in relation to, the school's educational purpose, and is used by the students (this portion was added by the Amendments).

The Amendments define the term 'public property' to mean all public property that is within the same reasonably contiguous geographic area of the school that is adjacent to a facility owned or controlled by the school, and the facility is used by the school in a manner related to the institution's educational purposes. For example: a sidewalk, a street, other thoroughfare, or parking facility.

Timely Warning

In addition to the required annual campus crime report, schools are required to provide timely warning to the campus community of any occurrences of the following crimes that are reported to campus security authorities or local police agencies and are considered to represent a continuing threat to students and/or employees (note that

a school must also include statistical and policy information related to these same crimes in its campus crime report; see page 164):

- murder,
- forcible and nonforcible sex offenses,
- robbery,
- aggravated assault,
- burglary,
- motor vehicle theft,
- manslaughter
- arson
- arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession, and
- under the category of “prejudice” crimes of forcible and nonforcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, manslaughter, arson, and other crimes that involve bodily injury that show evidence of prejudice based on race, gender, religion, sexual orientation, ethnicity or disability.

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The Amendments of 1998 expand the crimes that a school must include to add manslaughter, arson, and arrests of persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession. The Amendments also clarify that the category of “prejudice” on the list must be included. This category includes crimes that manifest evidence of prejudice.

Campus Security Authority

A campus security authority is (1) a campus law enforcement unit. (2) an individual or organization specified in a school’s campus security statement as the individual or organization to which students and employees should report criminal offenses. (3) an official of a school who has significant responsibility for student and campus activities, but does not have significant counseling responsibilities.

Note that campus officials with significant counseling responsibility are not subject to the timely warning requirement. This permits the official to provide confidential assistance to a crime victim without the competing obligation to provide an immediate report of criminal activity to the campus community. This exception does not apply to statistical reporting of crimes that occur on campus. All officials with significant responsibility for campus and student activities are required to provide information for preparation of the annual statistics.

The timely warning information is to be provided in an appropriate manner so as to prevent similar crimes from occurring and to protect the personal safety of students and employees. Schools should work closely with local law enforcement officials in determining the necessary and appropriate distribution of such information to the campus community.

FERPA

The provisions of the Family Educational Rights and Privacy Act (FERPA) do not prohibit a school from complying with the requirements of the campus security regulations. Although information on reported crimes could be included in records that are protected under FERPA, FERPA does not prohibit the disclosure of statistical, non-personally identifiable information. FERPA does not preclude a school's compliance with the timely warning requirement because FERPA recognizes that, in an emergency, information can be released without consent when needed to protect the health and safety of others. In making a timely warning report to the campus community on criminal activity that affects the safety of others, even if the school discloses the identity of an individual, the school has not violated the requirements of FERPA.

Disciplinary action or proceeding

The investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.

Law enforcement unit

Any individual, office, department, division, or other component of an educational agency or institution, such as a unit of commissioned police officers or noncommissioned security guards, that is officially authorized or designated by that agency or institution to

- enforce any local, state, or federal law, or refer to appropriate authorities a matter for enforcement of any local, state, or federal law against any individual or organization other than the agency or institution itself, or
 - maintain the physical security and safety of the agency or institution.
-
-

Records created and maintained by a campus law enforcement unit are not education records and are not protected from disclosure by FERPA. Records of a school's disciplinary actions or proceedings against a student are not available to the public without the consent of the student or the student's parent (if applicable). However, this law does not prevent a school from releasing records of its law enforcement unit to the public without the consent of the student or the student's parent (if applicable).

Under the law, a school is permitted to disclose the results of disciplinary proceedings to the alleged victim of a crime of violence (as defined in the United States Code). However, disclosure may not be made to the public without the consent of the student or parent (if applicable).

A school is not relieved of compliance with the reporting requirements of the campus security regulations when the school refers a matter to a disciplinary committee, rather than to the school's law enforcement unit or directly to the local authorities.

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Daily Crime Log

The Amendments of 1998 require schools to make, keep and maintain daily logs of crimes reported to police or security departments. The logs must be written in a manner that is easily understood. The school must record the nature, date, time, and general location of each crime, and the disposition of the complaint, if known. The logs must be made public, except where prohibited by law or when disclosure would jeopardize the confidentiality of the victim. Schools are required to update logs with new information when available, but no later than 2 business days after the information is received.

A school may withhold information if (and as long as) the release of the information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to evade detection, or result in the destruction of evidence.

The Campus Crime Report

The annual crime report due September 1, must contain the required crime statistics for the three calendar years preceding the year in which the report is disclosed. The crime report due September 1, 1999 must include statistics for 1996, 1997, and 1998 calendar years.

Policies and Procedures for Reporting Crimes

The campus crime report provides information regarding campus security policies and campus crime statistics. With limited exceptions, the campus security requirements do not prescribe policies and procedures for schools to follow. Rather, schools are required to make disclosures concerning the policies and procedures implemented by the school. At a minimum, the campus security report must include the following:

- a statement (including a list of the titles of each person or organization to whom students and employees should report the crimes) of the procedures and facilities for reporting crimes and other emergencies occurring on campus, and the policies for the school's response to such reports, including policies for making timely reports of the following crimes that are reported to campus officials or local police agencies to members of the campus community:

Δ murder,

- △ forcible and nonforcible sex offenses,
- △ robbery,
- △ aggravated assault,
- △ burglary,
- △ motor vehicle theft,
- △ manslaughter
- △ arson
- △ arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession
- △ under the category of “prejudice” crimes of forcible and nonforcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, manslaughter, arson, and other crimes that involve bodily injury that show evidence of prejudice based on race, gender, religion, sexual orientation, ethnicity or disability

The Amendments of 1998 expand the crimes which a school must include in its campus crime statistics to include manslaughter, arson, and arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession.

Amendments of 1998

Note that the Amendments of 1998 also expanded the reporting of statistics for liquor law violations, drug-related violations, and weapons possession to include persons referred for campus disciplinary action for these crimes.

Amendments of 1998

The Amendments of 1998 also clarify that statistics are required by the category of “prejudice” on crimes that manifest evidence of prejudice.

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- statistics on the occurrence on campus, in or on noncampus buildings or property, and on public property of the crimes listed above,
- a statement of the policies concerning the security of, and access to, all campus facilities, including residences, and security considerations used in the maintenance of campus facilities,
- a statement of the policies concerning campus law enforcement, including
 - △ the enforcement authority of campus security personnel, their working relationship with state and local police and other law enforcement agencies, and whether the security personnel have the authority to arrest individuals, and
 - △ policies that encourage accurate and prompt reporting of crimes to campus police and the appropriate police agencies,

- a description of the type and frequency of programs for students and employees on campus security procedures and practices; programs that encourage students and employees to be responsible for their own security and the security of others, and crime prevention programs,
- a statement of the policies concerning the monitoring and recording (through local police agencies) of student criminal activity at off-campus locations of student organizations recognized by the school, including student organizations with off-campus housing facilities (see the definition of a “ campus” on page 161),
- the policies concerning the possession, use, and sale of alcoholic beverages including the enforcement of state underage drinking laws, and the policies concerning the possession, use, and sale of illegal drugs including the enforcement of state and federal drug laws,
- a description of the drug and alcohol-abuse education programs available to students and employees, as required under section 1213 of the Higher Education Act,
- a statement of the sexual assault prevention programs available and the procedures to be followed when a sex offense occurs including
 - △ a description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses,
 - △ procedures a student should follow if a sex offense occurs (who to contact and how to contact them, the importance of preserving evidence for proof of a criminal offense),
 - △ options for the notification of local law enforcement officials (including on-campus and local police) and a statement that school personnel will assist the student in notifying these authorities, if requested by the student,
 - △ availability of on- and off-campus counseling, mental health, or other student services for victims of sex offenses,
 - △ notice to students that the school will change a victim’s academic and living situations after the alleged sex offense and of the options for changes, if changes are requested by the victim and are reasonably available,
 - △ procedures for campus disciplinary actions in cases of an alleged sex offense, including a clear statement that both the accuser and the accused
 - ◇ are entitled to the same opportunities to have others present during a disciplinary proceeding, and
 - ◇ will be informed of the school’s final determination any school disciplinary proceeding with respect to the alleged sex offense and any sanction that is imposed against the accused,

- sanctions the school may impose following a final determination of a school disciplinary proceeding regarding rape, acquaintance rape, or other forcible or nonforcible sex offenses.

Student Right to Know Cite
Sec. 485(a)

The Amendments require schools to report crime statistics by means of separate categories: (a) on campus; (b) in or on a noncampus building or property; (c) on public property; and (d) in dormitories or other residential facilities.

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All schools must compile the required crime statistics in accordance with the definitions used in the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) System, which is provided in Appendix E of the final regulation published April 29, 1994. However, schools are not required to participate in the FBI's UCR program.

Complaints Against Schools

When a complaint is filed against a school alleging noncompliance with the campus security regulations, the Department will assess the complaint and determine the appropriate response.

Technical assistance to schools in administering the campus security regulations is available from the Department's Customer Support Branch at 1-800-433-7327.

STUDENT RIGHT TO KNOW

The Amendments of 1998 require that Student Right-to-Know disclosures be made by July 1 of each year.

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In addition, the Amendments of 1998 provide that schools may provide supplemental information about students who were excluded from the completion rate calculation or for students transferring into the institution or information showing the rate at which students transfer out of the institution. The requirements in place prior to the Amendments of 1998 require schools to disclose transfer-out rates. Whether the Amendments of 1998 make the disclosure of transfer-out rates optional is being decided through the negotiated rulemaking process. This discussion reflects the requirement in place prior to the Amendments of 1998 for required disclosure.

The Student Right-to-Know Act requires schools to disclose information about graduation rates to current and prospective students and the public. A school participating in any SFA Program must disclose completion or graduation rates (both referred to here as completion rates), and transfer-out rates for the general student body. The regulations also require schools that participate in an SFA Program and offer athletically related student aid to provide information on completion rates, transfer-out rates, and other consumer information to potential student-athletes, their parents, high school coach, and guidance counselors.

For both general student body rates and rates related to athletically related student aid, schools must disclose information on completion rates and transfer-out rates on certificate- or degree-seeking, full-time undergraduate students who enter the school during the 1996-97 academic year. The cohort year is September 1- August 31.

Determining the Cohort

To calculate completion and transfer-out rates, a school must identify a group of students each year (a cohort) that the school will monitor over time so that it may determine the percentage of those students who complete their programs or transfer out of the school. The same “snapshot” approach is used to determine rates for both the general student body and those rates related to athletically related student aid. The regulations specify the cohort a school must use based on how the school offers most of its programs.

Standard Term Schools

A school that offers most of its programs based on standard terms (semesters, trimesters, quarters) must use a fall cohort of first-time freshmen for these calculations. That is, the school must count all first-time freshmen who are certificate- or degree-seeking, full-time undergraduate students who enter the school during the fall term. For a fall cohort, a student has entered the school if he or she enrolled for the fall term (or during the summer immediately preceding the fall term) and is still enrolled as of October 15 or the end of the school’s drop-add period for the fall term.

Nonstandard Term or Non-Term Schools

A school that does not offer most of its programs based on standard terms must count all first-time freshmen who are certificate- or degree-seeking, full-time undergraduate students who enter the school between September 1 and August 31. For a cohort for nonstandard term and non-term schools, a student has entered the school if he or she has attended at least one class.

Schools may not include students who transfer into the school from another school as entering students for purposes of these calculations; however, a school may calculate a completion rate for students who transfer into the school as a separate, supplemental rate.

Definitions

The definitions of certificate- or degree-seeking students, first-time freshman students, and undergraduate students were adopted (with slight modifications to address the Student Right-to Know statute) from the National Center for Education Statistics (NCES’s) Integrated Postsecondary Education Data System (IPEDS) Graduation Rate Survey (GRS).

Certificate- or degree-seeking student- a student enrolled in a course for credit who is recognized by the school as seeking a degree or certificate.

First-time freshman student- an entering freshman who has never attended any institution of higher education. Includes a student enrolled in the fall term who attended a postsecondary institution for the first time in the prior summer term, and a student who entered with advanced standing (college credit earned before graduation from high school).

Undergraduate students- students enrolled in a 4- or 5-year bachelor's degree program, an associate's degree program, or a vocational or technical program below the baccalaureate level.

Schools must use the SFA definition of a full-time student that is found in the Student Assistance General Provisions regulations (see the *SFA Handbook: Student Eligibility*).

Waivers

The regulations provide for a waiver of completion rate and transfer-out rate calculations for the general student body and for athletic data to any school that is a member of an athletic association or conference that has voluntarily published (or will publish) completion or graduation data that the Department determines is substantially comparable to the data required by the regulations. However, unless otherwise specified, a waiver does not apply to the required disclosure of additional data related to athletically related student aid. In addition, schools are still required to comply with information dissemination requirements.

The Amendments of 1998 allow the NCAA to distribute graduation rate information to all secondary schools in the U.S. to satisfy the distribution requirements for prospective student athletes' guidance counselors and coaches.


 A small oval graphic containing the text "Amendments of 1998".

In addition to waivers, the Department will consider the protocols of other agencies as acceptable methodologies if those protocols meet the requirements of the regulations. Currently, the Department has approved the technical manual of the Joint Commission on Accountability Reporting (JCAR) (an arm of the Association of State Colleges and Universities) as containing a protocol that will generate information in compliance with the regulations. JCAR schools are still obligated to fulfill all regulatory requirements, including the requirement to calculate and provide graduation rate and transfer-out rate data on student-athletes. A school will still have to fulfill the dissemination requirements for the both general student body rates and rates related to athletically related student aid.

The Department will continue to work with any interested agencies to help them develop standards that meet these requirements. If in the future the Department determines that another agency's requirements meet the standards of the Student Right-to-Know Act, the Department

will inform schools that those rates may be used to satisfy the Student Right-to-Know requirements.

In the future, the National Center for Education Statistics will be putting out a graduation rate survey (GRS). Information generated for NCES for the GRS may be used to fulfill the data requirements discussed here. The Department will notify schools and provide further information when this option is available.

Disclosure for the General Student Body

The requirements for disclosing information on the general student body have been broken down into three steps: determining the cohort, calculating the rates, and disclosing the rates.

Step 1 - Determining the cohort

Schools must determine the cohort as described on pages 168 to 169 to identify students in such a way that it can take a snapshot of those same students at a later time.

Step 2 - Calculating the rates

Once a school has identified a cohort, it must determine how many of those students completed their program and how many transferred out of their program at the point in time that 150 percent of the normal time for completion of each program has elapsed for all of the students in the cohort.

Definition of "Normal Time"

Normal time is the amount of time necessary for a student to complete all requirements for a degree or certificate according to the school's catalog. This is typically

- four years (eight semesters or trimesters, or 12 quarters, excluding summer terms) for a bachelor's degree in a standard term-based school,
- two years (four semesters or trimesters, or six quarters, excluding summer terms) for an associate degree in a standard term-based school, and
- the various scheduled times for certificate programs.

The following formula is used to calculate a completion rate for the general student body:

Number of students in cohort who completed their program within 150% of normal time for completion

Number of students in cohort (minus permitted exclusions)

Definition of a “Completor”

A student is counted as a completor if

- the student completed his or her program within 150 percent of the normal time for completion from their program, or
- the student has completed a transfer preparatory program within 150 percent of the normal time for completion from that program.

Transfer preparatory program At least a two-year program that is acceptable for full credit toward a bachelor’s degree and qualifies a student for admission into the third year of a bachelor’s degree program.

Excluded from Cohort

A school may exclude from the cohort students who

- have left school to serve in the armed forces,
- have left school to serve on official church missions,
- have left school to serve with a foreign aid service of the federal government, such as the Peace Corps, or
- are deceased, or have become totally and permanently disabled.

Transfer-out Rate

The following formula is used to calculate a transfer-out rate for the general student body:

Number of students in cohort who transferred out of their program within 150% of normal time for completion

Number of students in cohort (minus permitted exclusions)

Definition of a Transfer-out Student

A student is counted as a transfer-out student if, within 150 percent of the normal time for completion of their program, the student has transferred out of the program and enrolled in any program of another eligible institution for which the prior program provides substantial preparation. A school is required to report only on those students that the school knows have transferred to another school.

Documentation of a Transfer

In addition, to be counted as a transfer-out student, a school must document that the student actually transferred. Acceptable documentation is

- a certification letter or electronic certification from the school to which the student transferred stating that the student is enrolled in that school,
- confirmation of enrollment data from a legally-authorized statewide or regional tracking system (or shared information from those systems) confirming that the student has enrolled in another school,
- institutional data exchange information confirming that a student has enrolled in another school, or
- an equivalent level of documentation.

Excluded from Cohort

As in the calculation of its completion rate, a school may exclude from the cohort students who

- have left school to serve in the armed forces,
- have left school to serve on official church missions,
- have left school to serve with a foreign aid service of the federal government, such as the Peace Corps, or
- are deceased, or have become totally and permanently disabled.

Step 3 - Disclosing the rates

This information must be disclosed by the July 1 immediately following the expiration of 150% of normal time for the group of students on which the school bases its completion and transfer-out rate calculation.

Schools must disseminate the information on completion and transfer-out rates to all enrolled students, and to prospective students upon request, through appropriate publications and mailings (for example, school catalogs or admissions literature). Schools are strongly encouraged to provide this information to other interested parties, such as guidance counselors, upon request.

EXAMPLE-Determination of Completion and Transfer-out Rates for the General Student Body

Step 1 - Determining the Cohort

Tower of London College (TLC) has both two-year and four-year degree programs. It operates on a semester basis, so it used a fall cohort.

During its fall semester, TLC had enrolled 1,000 full-time first year freshmen in degree programs. It tagged those students as its 1996 cohort.

Step 2 - Calculating the rates

One hundred and fifty percent of normal time for completion of the two-year program elapsed on August 31, 1999. In September of 2002 (after the 150% of normal time for completion of the four-year program elapsed), TLC searched its records to see how many of the 1,000 students in the cohort had completed a two-year degree as of August 31, 1999. It found that 250 students had completed such a degree. It noted both the number and identity of those students. TLC noted the identity of the students so that it would be able to determine if any of the 250 students also obtained a four-year degree and must be treated as duplicates (see below).

It also found that 35 students received a two-year degree between July 1, 1999 and August 31, 2002. TLC was unable to count these students as completors for Student Right-to-Know purposes, as they had completed the program after the elapse of 150% of normal time for completion; however, TLC chose to use this data as supplemental information.

At this point, TLC also determined the number of transfer-out students in the two-year program by ascertaining the number of students for which it had documents showing that the student had transferred to, and begun classes at, another school. It found that it had documentation on 50 such students.

One hundred and fifty percent of normal time for completion of the four-year program elapsed on August 31, 2002. In September of 2002, TLC determined how many of the 1,000 students had received a four-year degree as of June 30, 2002. It found that 450 students had done so.

Because TLC had identified the completors of the two-year program, it was able to determine that 10 of the students it had counted as 2-year completors had also received a four-year degree. TLC is not permitted to count these students as completors twice, so it deducted the number from the number of two-year degree program completors (it could also have deducted them from the number of four-year completors had it so chosen).

TLC surveyed its records to determine the number of students in the four-year program that it could document as having transferred as of August 31, 2002. It found 65 students had done so.

To determine if any of the students could be excluded from the cohort, TLC searched its records for documentation that showed that a total of 15 students in the original cohort had left the institution for the express purpose of joining a church mission, the armed forces, or a foreign aid program sponsored by the federal government, or had died or become totally and permanently disabled.

Athletically Related Student Aid
Any scholarship, grant, or other form of financial assistance offered by the school, the terms of which require the recipient to participate in a program of intercollegiate athletics at the school in order to be eligible to receive such assistance.

TLC calculated its completion rate and transfer-out rate as follows:

450 four-year program completors + (250 two-year program completors - 10 duplicates)

1,000 students in cohort - 15 permitted exclusions

Completion rate = 70%

65 four-year program transfers + 50 two-year transfers

1,000 students in cohort - 15 permitted exclusions

Transfer-out rate = 11.6%

Step 3 - Disclosing the rates

On July 1, 2003, (the July 1 following the expiration of 150 percent of normal time for the entire cohort) TLC published its completion rate and its transfer-out rate for the students who entered in the fall of 1996.

TLC decided to provide separate, supplemental information regarding the completion and retention rates of its part-time students because it has a large part-time student population. It also provided separate, supplemental information on the number of students who completed the two-year program after four years and after five years. It could have also provided separate, supplemental information on students who transferred into the school from another school had it so wished.

Athletically Related Student Aid Disclosure Requirements

Schools that participate in an SFA Program and offer athletically related student aid must provide information on completion rates, transfer-out rates, and other statistics for students who receive athletically related student aid to potential student athletes, and to their parents¹, high school coach, and guidance counselors.

The definition of athletically related student aid used here (see margin) is the same definition that is used for the EADA disclosure requirements (see page 177). The definitions of certificate- or degree-seeking students first-time freshman students undergraduate students and normal time are the same as those used for the calculation of completion and transfer-out rates for a schools general student body (discussed above).

Step 1 - Determining the cohort

A school must determine the cohort as described on pages 168 to 169.

1. In cases of separation or divorce when it may be difficult to locate both parents, the provision of the required information to the parent who acts as guardian of the student is acceptable.

Step 2 - Calculating the rates

Schools that provide athletically related student aid must report three completion rates and three transfer-out rates:

- a completion rate and transfer-out rate for the general student body (see page 167),
- a completion rate and transfer-out rate for the members of the cohort who received athletically related student aid (this rate is calculated in the same manner as the rates for the general student body, but must be broken down by race and gender within each sport), and
- the average completion rate and average transfer-out rate for the four most recent completing classes of the cohort categorized by race and gender for the general student population, and for race and gender within each sport. (Until the year 2000, a school may not have four years of data. In this case, the school must report an average completion rate for all the years for which it has data.)

Information that is required to be reported by sport must be broken down into the following categories:

- Basketball,
- Football,
- Baseball,
- Cross-country and track combined, and
- All other sports combined.

In addition to the completion rates and transfer-out rates, schools must report

- the number of students, categorized by race and gender, who attended the school during the year prior to the submission of the report, and
- the number of those attendees who received athletically related student aid, categorized by race and gender.

As in the calculation of completion rates and transfer-out rates for the general student body, a school may exclude from the cohort students who

- have left school to serve in the Armed Forces,
- have left school to serve on official church missions,

- have left school to serve with a foreign aid service of the federal government, such as the Peace Corps, and
- are deceased, or totally and permanently disabled.

Step 3 - Disclosing the rates

The report must be completed and submitted to the Department by July 1. A school must also provide the report to each prospective student athlete and his or her parents, coaches, and counselor when an offer of athletically related student aid is made to the prospective student. Data must be disclosed beginning on the July 1 immediately following the expiration of 150 percent of normal time for the cohort entering during the 1996-97 academic year. Therefore, schools will not be required to disclose this information for approximately one year after the expiration of the 150 percent period.

For the first year, schools are not required to provide completion rate information for students who enter before the 1996-97 academic year. However, if a school has data on students entering prior to the 1996-97 academic year (as the result of NCAA requirements, for example) the school should report these data in the four-year averages.

Schools that are not yet reporting completion rate or transfer-out rates because they do not have the necessary data must still disclose the additional data regarding the number of students who attended the previous year, categorized by race and gender, and the number who attended the previous year and who received athletically related student aid, categorized by race and gender within each sport.

There is a de minimus exception to the disclosure requirements for the completion or graduation rates of student athletes that allows schools not to disclose those rates for categories that include five or fewer students.

Schools may also provide to the Department and to student's supplemental information containing the completion rate of students who transferred into the school and the number of students who transferred out of the school.

Supplemental Information

Schools are strongly encouraged to provide additional information to place their completion or transfer-out rates for both the general student body and those related to athletically related student aid in context. For example, a small school's completion rate may vary greatly from year to year because the school's calculations use a very small cohort. The school may wish to provide prior years data and an explanation of factors affecting their completion rate.

Also, if a school's completion rate is lowered because a large percentage of students serve on church missions, the school may wish to provide supplemental information with the required calculation to

provide the completion rate of those students when an extended time frame is applied.

Equity in Athletics Cite
Sec. 485(g)

Although schools must calculate and disclose the transfer-out rate separately from their completion rate, a school may wish to provide additional information that combines the completion rate with its transfer-out rate if the school believes this provides a more accurate picture of the school.

EQUITY IN ATHLETICS

Regulations published November 29, 1995 implemented the provision of the Improving America's Schools Act of 1994 titled the Equity in Athletics Disclosure Act (EADA). The EADA is designed to make prospective students aware of the commitments of a school to providing equitable athletic opportunities for its men and women students.

Any coeducational institution of higher education that participates in an SFA Program and has an intercollegiate athletic program must prepare an annual EADA report. The report contains participation rates, financial support, and other information on men's and women's intercollegiate athletic programs.

Disclosure of the Report

The EADA requires schools to make this report available upon request to students, potential students, and the public. A school must make the report available to students, prospective students, and the public in easily accessible places. For example, a school may make copies of the report available in intercollegiate athletic offices, admissions offices, libraries, or by providing a copy to every student in his or her electronic mailbox.

In addition, a school must provide the report promptly to anyone who requests the information. For example, a school may not refuse to provide a copy of the report to the news media, and the school may not require an individual requesting the information to come to the school to view the report.

A school must inform all students and prospective students of their right to request the information. For example, the school may publish a notice at least once a year in a school publication, the school catalogue, registration materials, or relevant intercollegiate athletic department publication distributed to all students.

A school may not charge a fee to students, potential students, parents or coaches who ask for the information; however, schools are not prohibited from charging the general public a fee to cover copying expenses only.

Schools were required to compile and make available its first report by October 1, 1996. Each subsequent report must be compiled and made available by October 15 each year thereafter.

The Department has developed an optional form for reporting the EADA data (see page 185). Schools are not required to use this form. Different reporting formats are acceptable, as long as they provide all the required information.

Amendments
of 1998

Previously, schools were only required to submit a copy of their report to the Department if the Department specifically requested submission. The Amendments of 1998 require schools to submit their Equity in Athletics reports to the Department annually.

The Department must submit a report to Congress by April 1, 2000, that summarizes the information reported by schools and identifies trends in the information, aggregates the information by divisions of the NCAA, and contains information on each individual school. In addition, the Department must ensure that the individual school reports and the report to Congress are made available to the public within a reasonable period of time.

Finally, the Department must notify all secondary schools in all states regarding the availability of information in the report to Congress and of the individual school reports and how such information may be accessed.

Contents of the Report

A school must first designate its reporting year. A reporting year may be any consecutive 12-month period of time. For its designated reporting year, a school must report

- the number of male and female full-time undergraduate students that attended the school (undergraduate students are those who are consistently designated as such by the school),
- the total amount of money spent on athletically related student aid (including the value of waivers of educational expenses) for: 1) men's teams and 2) women's teams,
- the ratio of athletically related student aid awarded to male athletes to athletically related student aid awarded to female athletes (see the definition of athletically related student aid on page 174),
- the total amount of recruiting expenses for: 1) all men's teams and 2) all women's teams,
- the total annual revenues for: 1) all men's teams and 2) all women's teams (a school may also report these revenues by individual teams),

- the average annual institutional salary of the head coaches for all offered sports of 1) men's teams and 2) women's teams,²
- the average annual institutional salary of the assistant coaches for all offered sports of 1) men's teams and 2) women's teams, and
- a listing of the varsity teams that competed in intercollegiate athletic competition and for each team, the following data:

- Δ total number of participants as of the day of the first scheduled contest of the reporting year for the team,
- Δ total operating expenses (expenditures on lodging and meals, transportation, officials, uniforms, and equipment) attributable to the team,³
- Δ gender of the head coach (including any graduate assistant or volunteer who served as head coach) and whether he or she was assigned on a full-time or part-time basis,
- Δ number of male assistant coaches (including any graduate assistants or volunteers who served as assistant coaches) and whether each was assigned on a full-time or part-time basis, and
- Δ number of female assistant coaches (including any graduate assistants or volunteers who served as assistant coaches) and whether each was assigned on a full-time or part-time basis.

Definitions

“Recruiting expenses” are all expenses schools incur for recruiting activities including, but not limited to, expenditures for transportation, lodging, and meals for both recruits and institutional personnel engaged in recruiting, all expenditures for on-site visits, and all other expenses related to recruiting.

“Institutional salary” is all wages and bonuses a school pays a coach as compensation attributable to coaching.

In addition to teams that are designated as “varsity” by the school or an athletic association, varsity teams include any team that primarily competes against other teams that are designated as varsity.

“Participants” on varsity teams include not only those athletes who take part in a scheduled contest, but also any student who practices with the team and receives coaching as of the day of the first scheduled intercollegiate contest of the designated reporting year. This includes junior varsity team and freshmen team players if they are part of the

2. If a head coach had responsibility for more than one team and your school does not allocate that coach's salary by team, you must divide the salary by the number of teams for which the coach had responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

3. A school also may report those expenses on a per capita basis for each team and may report combined expenditures attributable to closely related teams, such as track and field or swimming and diving. Those combinations must be reported separately for men's and women's teams.

overall varsity program. Schools should also include all students who receive athletically related student aid, including redshirts, injured student athletes, and fifth-year team members who have already received a bachelor's degree.

“Operating expenses” are expenditures on lodging and meals, transportation, officials, uniforms, and equipment.

The Requirements Formerly Known as “PPA Requirements for Schools Awarding Athletically Related Financial Aid”

Amendments
of 1998

The Higher Education Amendments of 1992 added language to the PPA concerning additional administrative requirements for institutions offering athletically related student aid. The Amendments of 1998 moved these provisions into the section of the law that addresses Equity in Athletics.

Prior to the Amendments, schools were required to compile an annual report with this information, within six months of the end of each fiscal year. The school's report had to be independently audited every three years. Schools had to make available the reports and, where allowable by state law, the audits, to the Department and the public.

These requirements now fall under the reporting requirements of the EADA. See the discussion under “Disclosure of the Report” on page 177.

The Equity in Athletics Report must include the following figures:

1. revenues earned from each of the following sports: football, men's basketball, women's basketball, other men's sports combined, and other women's sports combined;
2. total revenues earned from the sports listed in #1;
3. expenses for each of the following sports: football, men's basketball, women's basketball, other men's sports combined, and other women's sports combined; and
4. total expenses of the sports listed in #3;
5. total revenues and total operating expenses of the school.

For these items, “revenue” includes, but is not limited to, gate receipts, broadcast revenues and other conference distributions, appearance guarantees and options, concessions, and advertising (student activity fees, alumni contributions, and investment income not allocable to a sport may be counted in total revenues only).

“Expenses” includes grants-in-aid, salary and payroll, travel costs, equipment and supply purchases (general and administrative overhead costs may be counted in total expenses only).

LOAN COUNSELING

Before a Federal Perkins, FFEL, or Federal Direct Loan borrower takes out a loan, the school must counsel that borrower, individually or in a group with other borrowers. The school must give the borrower general information on the average anticipated monthly repayments on the loan, available repayment options, and advice on debt management planning, to facilitate repayment and deferment/cancellation provisions, if applicable, and other terms and conditions. This loan counseling must also be provided before the borrower completes his or her course of study, or otherwise leaves the school. For a complete discussion of loan counseling requirements, please see the Campus-Based Programs Reference, the Direct Loan and FFEL Programs Reference, and Direct Loan entrance and exit counseling guides.

DRUG AND ALCOHOL ABUSE PREVENTION INFORMATION

Schools that participate in the campus-based programs must provide information under the Drug-Free Workplace Act of 1988 (Public Law 101-690), including a notice to its employees of unlawful activities and the actions the school will take against an employee who violates these prohibitions. In addition, the Drug-Free Schools and Communities Act (Public Law 101-226) requires schools that participate in any SFA Program to provide information to its students, faculty, and employees to prevent drug and alcohol abuse.

Information to be Included in Drug Prevention Materials

A school must provide the following in its materials:

- standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of drugs and alcohol by students and employees on the school's property, or as a part of the school's activities;
- a description of the applicable legal sanctions under local, state, and federal law for unlawful possession, use, or distribution of illicit drugs and alcohol;
- a description of any drug and alcohol counseling, treatment, or rehabilitation programs available to students and employees;
- a description of the health risks associated with the use of illicit drugs and alcohol; and
- a clear statement that the school will impose sanctions on students and employees (consistent with local, state, and federal law) and a description of these sanctions, up to and including expulsion or termination of employment, and referral for prosecution of the standards of conduct.

Prospective Student

Individuals who have contacted the school to inquire about enrolling at the school or who have been contacted directly by the school or indirectly through general advertising about enrolling at the school.

The appendices and Comments and Responses sections of the August 16, 1990 regulations provide additional guidance and information for schools to use in developing these materials.

Distribution of Materials to All Students and Employees

The school may include this information in publications such as student or employee handbooks, provided that these publications are distributed to each student and employee. Merely making drug prevention materials available to those who wish to take them is not sufficient. The school must use a method that will reach every student and employee, such as the method used to distribute grade reports or paychecks. The school must distribute these materials annually. If new students enroll or new employees are hired after the initial distribution for the year, the school must make sure that they also receive the materials. (For more information on anti-drug abuse requirements, see Chapter 2.)

MISREPRESENTATION

The General Provisions regulations permit the Department to fine a school, or limit, suspend, or terminate the participation of any school that substantially misrepresents the nature of its educational program, its financial charges, or the employability of its graduates.

Definition of Misrepresentation

“Misrepresentation” is any false, erroneous or misleading statement made to a student or prospective student, to the family of an enrolled or prospective student, or to the Department. This includes disseminating testimonials and endorsements given under duress.

“Substantial Misrepresentation” is any misrepresentation on which the person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person’s detriment.

Misrepresentation of the educational program includes false or misleading statements about the school’s accreditation, the school’s size, location, facilities, or equipment. Misrepresentation of financial charges includes false or misleading statements about scholarships provided for the purpose of paying school charges. To be considered a scholarship, it must actually be used to reduce tuition charges made known to the student before the scholarship was offered to the student. (The tuition charges must be charges that are applied to all students not receiving a scholarship.) It is also considered misrepresentation if the school gives false or misleading information as to whether a particular charge is a customary charge for that course at the school.

Misrepresentation of the employability of the school’s graduates includes any false or misleading statements

- that the school is connected with any organization or is an employment agency or other agency providing authorized training leading directly to employment,

- that the school maintains a placement service for graduates or will otherwise secure or assist graduates in securing a job, unless it provides the student with a clear and accurate description of the extent and nature of the service or assistance, or
- concerning government job market statistics in relation to the potential placement of its graduates.

The regulatory provisions concerning misrepresentation are given in detail below.

Nature of Educational Program

Misrepresentation by an institution of the nature of its educational program includes, but is not limited to, false, erroneous or misleading statements concerning

- The particular type(s), specific source(s), nature and extent of its accreditation;
- Whether a student may transfer course credits earned at the institution to any other institution;
- Whether successful completion of a course of instruction qualifies a student for: acceptance into a labor union or similar organization; or receipt of a local, state, or federal license or a nongovernment certification required as a precondition for employment or to perform certain functions;
- Whether its courses are recommended by vocational counselors, high schools or employment agencies, or by governmental officials for government employment;
- Its size, location, facilities or equipment;
- The availability, frequency and appropriateness of its courses and programs to the employment objectives that it states its programs are designed to meet;
- The nature, age and availability of its training devices or equipment and their appropriateness to the employment objectives that it states its programs and courses are designed to meet;
- The number, availability and qualifications, including the training and experience, of its faculty and other personnel;
- The availability of part-time employment or other forms of financial assistance;

Nature of Educational Program
Cite
34 CFR 668.72

Nature of Financial Charges Cite
34 CFR 668.73

- The nature and availability of any tutorial or specialized instruction, guidance and counseling, or other supplementary assistance it will provide its students before, during or after the completion of a course;

Employability of Graduates Cite
34 CFR 668.74

- The nature and extent of any prerequisites established for enrollment in any course; or
- Any matters required to be disclosed to prospective students under Sec. 668.44 (institutional information) and 668.47 (campus security information) of this part.

Nature of Financial Charges

Misrepresentation by an institution of the nature of its financial charges includes, but is not limited to, false, erroneous or misleading statements concerning

- Offers of scholarships to pay all or part of a course charge, unless a scholarship is actually used to reduce tuition charges that are applied to all students not receiving a scholarship and are made known to the student in advance; or
- Whether a particular charge is the customary charge at the institution for a course.

Employability of graduates

Misrepresentation by an institution regarding the employability of its graduates includes, but is not limited to, false, erroneous or misleading statements

- That the institution is connected with any organization or is an employment agency or other agency providing authorized training leading directly to employment,
- That the institution maintains a placement service for graduates or will otherwise secure or assist its graduates to obtain employment, unless it provides the student with a clear and accurate description of the extent and nature of this service or assistance, or
- Concerning government job market statistics in relation to the potential placement of its graduates.

Equity in Athletics Disclosure Act—Optional Form

All coeducational institutions of higher education that participate in any federal student financial aid program (Federal Pell, Federal SEOG, and Federal SSIG Grants; Federal Work Study; and Federal Family Education, Federal Perkins, and William D. Ford Federal Direct Loans) and have intercollegiate athletic programs under the Equity in Athletics Disclosure Act of 1994, Section 360B of Public Law 103-382. This Act and accompanying federal regulations require that the following information, based on the previous reporting year, be available for inspection by students, prospective students, and the public by October 1, 1996, and by October 15 each year thereafter. An institution may use this or any format to disclose this information.

I. General Information

A. Institution: _____

Information is for the reporting year beginning _____ and ending _____

B. *Optional* _____

Name of person completing form: _____

Signature: _____

Title: _____

Phone: _____

Date completed: _____

Current Organizational Classification:

NCAA Division _____ NAIA Division _____ Other _____

C: Enrollment: Indicate the number of undergraduates by gender:

	#	%
Male undergraduates	_____	_____
Female undergraduates	_____	_____
Total undergraduates	_____	100%

II. Intercollegiate Athletics—Varsity Teams

- A. Athletic Participation: Indicate the number of participants by gender for each varsity team. A participant is a student who either a) is listed as a team member, b) practices with the team and receives coaching as of the day of the first scheduled intercollegiate contest, or c) receives athletically-related student aid. Mark coed teams, specify “other” teams and use additional pages if necessary.

PROGRAM	MEN’S TEAMS	WOMEN’S TEAMS
BASKETBALL		
BASEBALL		
CROSS COUNTRY		
DIVING		
FENCING		
FIELD HOCKEY		
FOOTBALL		
GOLF		
GYMNASTICS		
ICE HOCKEY		
LACROSSE		
RIFLE		
ROWING		
SKIING		
SOCCER		
SOFTBALL		
SQUASH		
SWIMMING		
SYNCHRONIZED SWIMMING		
TRACK & FIELD		
TEAM HANDBALL		
TENNIS		
VOLLEYBALL		
WATER POLO		
WRESTLING		
OTHERS (SPECIFY TEAMS)		
TOTAL PARTICIPANTS		

B. Operating Expenses: For each team, please indicate total institutional expenditures for lodging, meals, transportation, officials, uniforms and equipment for both home and away games. You may report co-ed team expenses separately, or prorate them as part of men's and women's teams expenses, but you may not report the same coed expenses both ways. Specify all "other" teams and use additional pages if necessary.

PROGRAM	MEN'S TEAMS	WOMEN'S TEAMS	CO-ED TEAMS	TOTALS
BASKETBALL				
BASEBALL				
CROSS COUNTRY TRACK & FIELD				
FENCING				
FIELD HOCKEY				
FOOTBALL				
GOLF				
GYMNASTICS				
ICE HOCKEY				
LACROSSE				
RIFLE				
ROWING				
SKIING				
SOCCER				
SOFTBALL				
SQUASH				
SWIMMING & DIVING				
SYNCHRONIZED SWIMMING				
TEAM HANDBALL				
TENNIS				
VOLLEYBALL				
WATER POLO				
WRESTLING				
OTHERS (SPECIFY TEAMS)				
TOTAL EXPENSES	\$ (%)	\$ (%)	\$ (%)	\$ (100%)

C. Head Coaches: For each team, please indicate the gender of the head coach (including volunteers) and whether the head coach is assigned to the team on a full-time or part-time basis. Specify "other" teams, and use additional pages if necessary.

PROGRAMS	HEAD COACH MEN'S TEAMS				HEAD COACH WOMEN'S TEAMS				HEAD COACH CO-ED TEAMS			
	MALE		FEMALE		MALE		FEMALE		MALE		FEMALE	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
BASKETBALL												
BASEBALL												
CROSS COUNTRY												
DIVING												
FENCING												
FIELD HOCKEY												
FOOTBALL												
GOLF												
GYMNASTICS												
ICE HOCKEY												
LACROSSE												
RIFLE												
ROWING												
SKIING												
SOCCER												
SOFTBALL												
SQUASH												
SWIMMING												
SYNCHRONIZED SWIMMING												
TEAM HANDBALL												
TENNIS												
TRACK & FIELD												
VOLLEYBALL												
WATER POLO												
WRESTLING												
OTHERS (SPECIFY TEAMS)												
TOTALS												

D. Assistant Coaches: For each team, please indicate the number of assistant coaches by gender (including volunteers) and whether they are assigned to the team on a full-time or part-time basis. Specify "other" teams, and use additional pages if necessary.

PROGRAMS	ASS'T COACHES MEN'S TEAMS				ASS'T COACH WOMEN'S TEAMS				ASS'T COACH CO-ED TEAMS			
	MALE		FEMALE		MALE		FEMALE		MALE		FEMALE	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
BASKETBALL												
BASEBALL												
CROSS COUNTRY												
DIVING												
FENCING												
FIELD HOCKEY												
FOOTBALL												
GOLF												
GYMNASTICS												
ICE HOCKEY												
LACROSSE												
RIFLE												
ROWING												
SKIING												
SOCCER												
SOFTBALL												
SQUASH												
SWIMMING												
SYNCHRONIZED SWIMMING												
TEAM HANDBALL												
TENNIS												
TRACK & FIELD												
VOLLEYBALL												
WATER POLO												
WRESTLING												
OTHERS (SPECIFY TEAMS)												
TOTALS												

Please provide definitions of full-time and part-time coaches:

III. Overall Athletics Program

- A. Recruiting Expenditures:** Please report the total institutional expenditures associated with recruiting for the men's and women's teams. Costs include, but are not limited to: transportation, lodging and meals for both recruits and institutional personnel engaged in recruiting; expenditures for on-site visits; and all other major expenses logically-related to recruiting. You may report expenditures for coeducational teams separately, or as a pro-rated portion of the expenditures for men's and women's teams. Do not list the same expenses under both men's and women's teams **and** coeducational teams.

Men's Teams	\$ _____	_____%
Women's Teams	\$ _____	_____%
Coeducational Teams	\$ _____	_____%
Total	\$ _____	100%

Please explain how these figures were derived:

B. Revenue: Please report the total revenue for the reporting year generated by all men's and women's teams. You may report revenues for coeducational teams separately, or as a pro rated portion of the revenues reported for men's and women's teams. Do not report the same revenues under both men's or women's teams **and** coeducational teams.

Men's Teams	\$ _____	_____%
Women's Teams	\$ _____	_____%
Coeducational Teams	\$ _____	_____%
Total	\$ _____	100%

C. Athletically-Related Student Aid: Please report the total amount of athletically-related student aid awarded men and women student athletes. Athletically-related student aid is aid awarded a student that requires the student to participate in an intercollegiate athletics program.

Athletically-related student aid awarded male athletes	\$ _____	____%
Athletically-related student aid awarded female athletes	\$ _____	____%
Total amount of athletically-related student aid	\$ _____	100%

D. Head Coaches' Salaries: Please report the average annual institutional salary of the head coaches of the men's and women's student teams. Volunteer head coaches and head coaches whose salaries are paid by entities other than this institution are excluded from this calculation. You may report average salaries of head coaches of coeducational teams separately, or as a pro rated portion of the salaries of head coaches of men's and women's teams. Do not list the same salaries under both men's or women's teams **and** coeducational teams. Institutions are encouraged to report the number of coaches to clarify the number of salaries represented in the average.

Average salary of head coaches for men's teams	\$ _____
Number of head coaches included in this average	_____

Average salary of head coaches for women's teams	\$ _____
Number of head coaches included in this average:	_____

Average salary of head coaches for coeducational teams	\$ _____
Number of head coaches included in this average:	_____

E. Assistant Coaches' Salaries: Please report the average annual institutional salary of the assistant coaches of the men's and women's student teams. Volunteer assistant coaches and assistant coaches whose salaries are paid by entities other than this institution are excluded from this calculation. You may report the average salary of assistant coaches of coeducational teams separately, or as a pro rated portion of the salaries of assistant coaches of men's and women's teams. Do not report the same salaries under both men's or women's teams **and** coeducational teams. Institutions are encouraged to report the number of coaches to clarify the number of salaries represented in the average.

Average salary of assistant coaches for men's teams	\$ _____	
Number of assistant coaches included in this average		_____
 Average salary of assistant coaches for women's teams	 \$ _____	
Number of assistant coaches included in this average:		_____
 Average salary of assistant coaches for coeducational teams	 \$ _____	
Number of assistant coaches included in this average:		_____

IV. Optional Section

An institution is encouraged to provide here any further information it believes might be helpful to students, prospective students, or the public to interpret the information provided above, or that might help a prospective student-athlete make an informed choice of an athletic program. For example, an institution may include here a history of its athletic programs, or explanations of unusual or exceptional circumstances that would better explain the data or their significance.

Recordkeeping and Disclosure

In this chapter, we discuss the requirements for maintaining and disclosing records for the SFA Programs.

The General Provisions regulations require schools to maintain records related to their participation in the SFA Programs. These records must be made available by the school to representatives of the Department and other specified individuals or organizations in the course of audits, program reviews, investigations, or other authorized reviews.

Recordkeeping Cites

General Education Provisions Act

In addition to the general institutional recordkeeping requirements discussed here, a school must also comply with all applicable program-specific recordkeeping requirements contained in the individual SFA Program regulations.

This chapter also describes disclosure requirements, including a discussion of the Family Educational Rights and Privacy Act (FERPA), which restricts the disclosure of student records to other parties and requires the school to give a student the opportunity to review his or her records.

REQUIRED RECORDS

A school must keep comprehensive and accurate program and fiscal records related to its use of SFA Program funds. The importance of maintaining complete and accurate records cannot be overemphasized. Program and fiscal records must demonstrate the school's eligibility for participation in the SFA Programs and show a clear "audit trail" for SFA Program expenditures. Records must be kept to demonstrate proper administration of SFA Program funds. For example, records for each SFA recipient must clearly show that the student was eligible for the funds received, and that the funds were disbursed in accordance with program regulations.

Program Records

A school must establish and maintain on a current basis any application the school submitted for SFA Program funds. A school must also maintain on a current basis program records that document

- the school's eligibility to participate in the SFA Programs,
- the SFA eligibility of the school's programs,
- the school's administration of the SFA Programs,
- the school's financial responsibility,
- information included in any application for SFA Program funds, and
- the school's disbursement and delivery of SFA Program funds.

Program Records a School Must Maintain

The program records that a school must maintain include, but are not limited to

- ✓ Program Participation Agreement
 - ✓ Accrediting and licensing agency reviews, approvals, and reports
 - ✓ State agency reports
 - ✓ Audit and program review reports
 - ✓ Self-evaluation reports
 - ✓ Other records, as specified in regulation, that pertain to factors of financial responsibility and standards of administrative capability
-
-

Fiscal Records

A school must keep fiscal records to demonstrate its proper use of SFA funds. A school's fiscal records must provide a clear audit trail that shows that funds were received, managed, disbursed, and returned in accordance with federal requirements. Schools are required to account for the receipt and expenditure of all SFA Program funds in accordance with generally acceptable accounting principles.

A school must establish and maintain on a current basis

- financial records that reflect each SFA Program transaction, and
- general ledger control accounts and related subsidiary accounts that identify each SFA Program transaction and separate those transactions from all other institutional financial activity.

Fiscal Records a School Must Maintain

The fiscal records that a school must maintain include, but are not limited to

- ✓ Records of all SFA Program transactions
- ✓ Bank statements for all accounts containing SFA funds
- ✓ Records of student accounts, including each student's institutional charges, cash payments, SFA payments, cash disbursements, refunds, and repayments required for each enrollment period
- ✓ General ledger (control accounts) and related subsidiary ledgers that identify each SFA Program transaction (SFA transactions must be separate from school's other financial transactions)
- ✓ Federal Work-Study payroll records
- ✓ Records that support data appearing on required reports, such as
 - Pell Grant Statements of Accounts
 - ED Payment Management System cash requests and quarterly or monthly reports
 - SFA Program reconciliation reports
 - Audit reports and school responses
 - State grant and scholarship award rosters and reports
 - Accrediting and licensing agency reports

General Records

In addition, a school must maintain the following records that pertain to the general administration of SFA Program funds.

General Records a School Must Maintain

A school must maintain records for each SFA recipient that include, but are not limited to

- ✓ The Student Aid Report (SAR) or Institutional Student Information Record (ISIR) used to determine a student's eligibility for SFA funds
- ✓ Application data submitted to the Department, lender, or guaranty agency by the school on behalf of the student or parent
- ✓ Documentation of each student's or parent borrower's eligibility for SFA Program funds (e.g., records that demonstrate that the student has a high school diploma, GED, or the ability to benefit)
- ✓ Documentation of all professional judgement decisions
- ✓ Financial aid history information for transfer students
- ✓ Cost of attendance information
- ✓ Documentation of a student's satisfactory academic progress
- ✓ Documentation of a student's program of study and courses in which enrolled
- ✓ Data used to establish student's admission, enrollment status, and period of enrollment
- ✓ Required student certification statements and supporting documentation
- ✓ Documents used to verify applicant data
- ✓ Documentation relating to each student's or parent borrower's receipt of SFA Program funds, including but not limited to
 - The amount of the grant, loan, or FWS award; its payment period; its loan period, if appropriate; and the calculations used to determine the amount of grant, loan, or FWS award,
 - The date and amount of each disbursement or delivery of grant or loan funds, and the date and amount of each payment of FWS wages,
 - The amount, date, and basis of the school's calculation of any refunds or overpayments due to or on behalf of the student, and
 - The payment of any refund or overpayment to the SFA Program fund, a lender, or the Department, as appropriate.
- ✓ Documentation of and information collected at any initial or exit loan counseling required by applicable program regulations

In addition, a school must maintain records that include, but are not limited to

- ✓ Reports and forms used by the institution in its participation in an SFA Program, and any records needed to verify data that appear in those reports and forms
 - ✓ Documentation supporting the school's calculation of its completion or graduation rates, and transfer-out rates (see Chapter 7)
-

In addition

- participants in the Perkins Loan Program must follow procedures in Section 674.19 for documentation of a repayment history for each borrower for that program (see the *SFA Handbook: Campus-Based Programs Reference*),
- participants in the FWS Program must follow procedures established in Section 675.19 for documentation of work, earnings, and payroll transactions for that program (see the *SFA Handbook: Campus-Based Programs Reference*), and
- participants in the FFEL Program must follow procedures established in Section 682.610 for documentation of additional loan record requirements for that program (see the *SFA Handbook: Direct Loan and FFEL Programs Reference*).

RECORD RETENTION PERIODS

Schools must retain all required records for a minimum of three years. However, the starting point for the three-year period is not the same for all records. For example, some campus-based program records must be kept for three years from the end of the award year in which the funds were awarded and disbursed. However, schools must keep the Fiscal Operations Report (FISAP) and any records necessary to support its data for three years from the end of the award year in which the FISAP is submitted. The most current FISAP, which will contain 1998-99 data, must be submitted during the 1999-2000 award year, will request 2000-2001 funds, and has a submission date of October 1999. Because this FISAP will be submitted during the 1999-2000 award year, records must be kept until at least June 30, 2003, three years from the last day of the 1999-2000 award year.

There are additional exceptions to the general record retention periods for repayment records for Perkins Loans and records related to a FFEL or Direct Loan borrower's eligibility and participation in those programs.

The chart on the next page illustrates the required minimum retention periods for records under the various SFA Programs.

Minimum Record Retention Periods

SFA Program	<i>End of the award year in which the report was submitted</i>	<i>End of the award year for which the aid was awarded</i>	<i>End of the award year in which the student last attended</i>	<i>The loan is satisfied or the documents are needed to enforce the obligation</i>	<i>The date on which a loan is assigned to the Department, cancelled, or repaid</i>
<i>Campus-based and Pell Grant</i>		3 YEARS			
<i>Except:</i>					
● Fiscal Operations Report (FISAP) and supporting records	3 YEARS				
● Perkins repayment records (after 12/87, includes original repayment schedule, though manner of retention remains same as promissory note)					3 YEARS
● Perkins original promissory notes (before 12/87, included original repayment schedule)				UNTIL	
<i>FFEL and Direct Loans</i>					
● Records related to borrower's eligibility and participation			3 YEARS		
● All other records, including any other reports or forms	3 YEARS				

Different retention periods are necessary to ensure enforcement and repayment of SFA loans. Perkins Loan repayment records, including cancellation and deferment records, must be kept for three years from the date on which the loan was assigned to the Department, cancelled, or repaid. Perkins original promissory notes and original repayment schedules must be kept until the loan is satisfied or needed to enforce the obligation (for more information, see the *SFA Handbook: Campus-Based Programs Reference*). Records relating to a borrower's eligibility and participation in the FFEL and Direct Loan programs must be kept for three years from the last day of the award year in which the student last attended the school.

A school may retain records longer than the minimum period required. If the school does maintain the records for a longer period of time and receives a financial aid transcript request (see the *SFA Handbook: Student Eligibility*), the school is required to provide any information requested from records the school still maintains.

A school may be required to retain records for longer than three years if the records are involved in any loan, claim, or expenditure questioned in any SFA program review, audit, investigation, or other review (see Chapter 11 for more information on program reviews and audits). If the three-year retention period expires before the issue in question is resolved, the school must continue to retain all records until resolution is reached.

RECORD MAINTENANCE

Acceptable Formats

A school must maintain all required records in a systematically organized manner. Unless a specific format is required, a school may keep required records in

- hard copy
- microform
- computer file
- optical disk
- CD-ROM
- other media formats

Regardless of the format used to keep a record, all record information (except for the Institutional Student Information Record [ISIR]) must be retrievable in a coherent hard copy format (for example, an easily understandable print out of a computer file) or in a media format acceptable to the Department. The requirement providing for other media formats acceptable to the Department allows for the use of new technology as it is developed. The Department will notify schools of acceptable media formats; schools should not apply for approval of a media format.

Any document that contains a signature, seal, certification, or any other image or mark required to validate the authenticity of its information must be maintained in its original hard copy or in an imaged media format. This includes tax returns, verification statements, Student Aid Reports (SARs) used to determine eligibility and any other document when a signature seal, etc., contained on it is necessary for the document to be used for the purposes for which it is being retained.

A school may maintain a record in an imaged media format only if the format is capable of reproducing an accurate, legible, and complete copy of the original document. When printed, the copy must be approximately the same size as the original document.

Special Requirements for SARs and ISIRs

Special maintenance and availability requirements apply for Student Aid Reports (SARs) and ISIRs used to determine eligibility because it is essential that these basic eligibility records be available in a consistent, comprehensive, and verifiable format for program review and audit purposes. Because the SAR is a hard copy document, it must be maintained and available in its original hard copy format or in an imaged media format. The ISIR, an electronic record, must be maintained and available in its original format, i.e., as it was supplied by the Department to the school on a magnetic tape or cartridge, or as it was archived using EDEExpress software supplied to the school. A school that uses EDEExpress has the ability to maintain the ISIR data that it has maintained during the applicable award year by archiving the data to a disk or other computer format. A school that receives ISIRs on magnetic tapes or cartridges may make a copy of the file received from the Department.

A school is not required to maintain all required records in its financial aid office. For example, it may be more appropriate for a school to maintain some records in the business office, the admissions office, or the office of the registrar. The responsible administrator in the office maintaining the records should be aware of all applicable record retention requirements.

If a school closes, stops providing educational programs, is terminated or suspended from the SFA Programs, or undergoes a change in ownership that results in a change of control, it must provide for the retention of required records. It must also provide for access to those records for inspection and copying by the Department. For a school that participates in the FFEL Program, the school must also provide access for the appropriate guaranty agency.

EXAMINATION OF RECORDS

Location

A school must make its records available to the Department at an institutional location designated by the Department. These records must be readily available for review, including any records of transactions between a school and the financial institution where the school deposits any SFA funds.

Cooperation with Agency Representatives

A school that participates in any SFA Program, and the school's third party servicers, if any, must cooperate with the agencies and individuals involved in conducting any audit, program review, investigation, or other review authorized by law. This cooperation must be extended to the following individuals and their authorized representatives: an independent auditor, the Secretary of the Department, the Department's Inspector General, the Comptroller General of the United States. A school must also provide this cooperation to any guaranty agency in whose program the school participates, and the school's accrediting agency.

Timely Access

A school must cooperate by providing timely access to requested records, pertinent books, documents, papers, or computer programs, for examination and copying by any of the agents listed above. The records to which timely access must be provided include, but are not limited to, computerized records and records reflecting transactions with any financial institution with which the school or servicer deposits or has deposited any SFA Program funds.

Reasonable Access to Personnel

A school must also provide reasonable access to all personnel associated with the school's or servicer's administration of the SFA Programs so that any of the agents listed above may obtain relevant information.

A school or servicer has not provided reasonable access to personnel if the school or servicer

- refuses to allow those personnel to supply all relevant information,
- permits interviews with those personnel only if the school's or servicer's management is present, or
- permits interviews with those personnel only if the interviews are tape recorded by the school or servicer.

SFA Recipient Information

If requested by the Department, a school or servicer must provide promptly any information the school or servicer has respecting the last known address, full name, telephone number, enrollment information, employer, and employer address of a recipient of SFA Program funds who attends or attended the school. A school must also provide this information, upon request, to a lender or guaranty agency in the case of a borrower under the FFEL Program.

DISCLOSING STUDENT INFORMATION

FERPA

To protect the privacy of students and families, federal law sets certain conditions on the disclosure of personal information from records kept by schools that participate in the SFA Programs. The relevant law is the Family Educational Rights and Privacy Act of 1974 (FERPA); do not confuse FERPA with the Privacy Act of 1974, which governs the records kept by government agencies, including the application records in the federal processing system.

FERPA restrictions on disclosure of records that are created and maintained by campus law enforcement units (for law enforcement purposes) are discussed in Chapter 7.

Department regulations set limits on the disclosure of personally identifiable information from school records, define the responsibilities of the school, and define the rights of the student in reviewing the records and requesting a change to the records. A school must give the student the opportunity to inspect and review his or her educational records, but does not have to provide copies of the records unless the requirement that the student come to the school to inspect and review the records would effectively deny access to the student. While the school may not charge a fee for retrieving the records, it may charge a reasonable fee for providing copies of the records, provided that the fee would not prevent access to the records.

The box on the next page notes several important elements of the school's responsibilities and the rights of the student or parent. The regulations apply to all education records the school keeps, including admissions records (only if the student was admitted) and academic records as well as any financial aid records pertaining to the student. Therefore, the financial aid office is not usually the office that develops the school's FERPA policy or the notification to students and parents, although it may have some input.

A School is Required to —

- **Develop a written policy** listing the types and locations of education records maintained by the school, and stating the procedures for parents and students to review the records.
- **Notify parents and students** of their rights with respect to educational records.
- **Document the student's file** each time personally identifiable information is disclosed to persons other than the student.

A Student has the Right to —

- **Inspect and review** education records pertaining to the student.
 - **Request an amendment** to the student's records.
 - **Request a hearing** (if the request for an amendment is denied) to challenge the contents of the education records, on the grounds that the records are inaccurate, misleading, or violate the rights of the student.
-

The FERPA regulations also establish rules governing the disclosure of student information to parties other than the student. The regulation lists 13 conditions under which “personally identifiable information” from a student’s education record may be disclosed without the student’s prior written consent. Several of these conditions are of particular interest to the financial aid office:

- Disclosure may be made to authorized representatives of the U.S. Department of Education, the Office of Inspector General, or state and local education authorities. These officials may have access to education records as a part of an audit or program review, or to ensure compliance with SFA Program requirements.

(Representatives of the Department include research firms that are under contract with the Department to conduct studies of financial aid procedures, using student information provided by the schools selected for the study. The term also includes the SFAP public inquiry contractor.)

- Disclosure may be made if it is in connection with financial aid that the student has received or applied for. For instance, the school may receive a request from the Immigration and Naturalization Service (INS) or the Federal Bureau of Investigation (FBI) for access to a student’s records. Such a request may only be granted if the student information is needed to determine the amount of the aid, the conditions for the aid, the student’s eligibility for the aid, or to enforce the terms or conditions of the aid.

- Disclosure may be made to the student's parent, if the student is a dependent of the parent, as defined by the Internal Revenue Service (IRS). If the student receives more than half of his or her support from the parent, under the IRS definition, the student is a dependent of the parent. (Note that the IRS definition is quite different from the rules governing dependency status for the SFA Programs.)
- Disclosure may be made to organizations that are conducting studies concerning the administration of student aid programs on behalf of educational agencies or institutions.

Disclosure Requests for Information

Schools are required to keep a record of each request for access and each disclosure of personally identifiable student information. The record must identify the parties who requested the information and their legitimate interest in the information. This record must be maintained in the student's file as long as the educational records themselves are kept.

Sample Disclosure Statement

If student records are requested by Department reviewers in the course of a program review, for instance, the school must document in each student's file that the student's records were disclosed to representatives of the Department. The easiest way for the school to do this is to photocopy a statement to this effect and include it in each student's file. A statement such as the following would be appropriate for a review of the SFA Programs conducted by a Department regional office: "These financial aid records were disclosed to representatives of the U.S. Department of Education, Region __, on (Month/Day/Year) to determine compliance with financial aid requirements, under 34 CFR Part 99.31 (a) (4)."

Redisclosure to Other Authorized Parties

When student information has been disclosed to one of the parties listed above, that party may redisclose that information to additional parties who are authorized to receive the information without prior written consent, provided that such redisclosure is included in the statement in the student's file. For instance, if a program review finds evidence that a student may have fraudulently obtained aid, this information may be redisclosed to the Department's Office of Inspector General (OIG) by the regional office. (Thus the OIG would not have to make a separate request to the school for the same information.) When redisclosure is anticipated, the additional parties to whom the information will be disclosed must be included in the record of the original disclosure. For instance, to continue the example for an SFA program review, the following statement might be added: "The Institutional Review Branch may make further disclosures of this information to the Department's Office of Inspector General, and to the U.S. Department of Justice, under 34 CFR 99.33(b)." You should check with the program review staff to find out if any redisclosure is anticipated.

As mentioned earlier, the financial aid office is usually not responsible for developing the school's FERPA policy. However, if you are involved in developing your school's policy and would like a copy of the Department's model policy for postsecondary schools, you may write to the following address:

Family Policy and Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-4605

Agreements Between Schools

Two or more institutions may enter into a consortium or contractual agreement so that a student can continue to receive SFA funds while studying at a school or organization other than his or her “home” institution. (The home school is the one that will grant the student’s degree or certificate.) This chapter discussed the specific requirements for such agreements.

Under a consortium or contractual agreement (including those for study abroad programs), the home school must give credit for the courses taken at the other school(s) on the same basis (in terms of instructional time) as if it provided that portion itself. The underlying assumption of the agreement is that the home school has found the other school’s or organization’s academic standards to be equivalent to its own, and a completely acceptable substitution for its own instruction.

However, a home school may decline to give credit for courses in which a student earns a grade of “D” at the other school. Although a home school has a policy of accepting grades of “D” or above earned at the home school, it does not have to accept credits earned for courses at the other school for which a student earns a “D.”

Grades received through either a consortium or contractual agreement do not have to be included in the calculation of the student’s grade point average (GPA).

CONSORTIUM AGREEMENT

A consortium agreement, which can exist between eligible schools only, can apply to all the SFA Programs. Under such a written agreement, students may take courses at a school other than the “home” institution (the school where the student expects to receive a degree or certificate) and have those courses count toward the degree or certificate at the home school.

Elements of a Consortium Agreement

There is no limit on the portion of the eligible program that may be provided by eligible schools other than the home school. Agreement contents can vary widely and will depend upon the interests of the schools involved and the accrediting or state agency standards. The Department does not dictate the format of the agreement (which

can be executed by several different offices) or where the agreement is kept. However, certain information should be included in all agreements, such as which school will grant the degree or certificate, what the student's tuition, fees, and room and board costs are at each school, and what the student's enrollment status will be at each school. The agreement should also specify which school will be responsible for disbursing aid and monitoring student eligibility and should include the procedures for calculating awards, disbursing aid, monitoring satisfactory progress and other student eligibility requirements, keeping records, and distributing SFA refunds. Usually, the home institution is responsible for disbursements, but if the student is enrolled for a full term or academic year at the host institution, it may be easier for the host institution to monitor the student's eligibility and make payments. The school paying the student must return SFA funds if required (for example, in refund or overpayment situations). For details on how agreements affect Federal Pell Grant calculations, see Chapter 4.

Effective Date of the Agreement

The agreement becomes effective for the payment period in which it is signed; however, it can be retroactive to a previous payment period if the payment period is in the same award year. Thus, if an agreement is signed in the middle of the spring semester, the student can be paid for the entire award year, including the preceding fall semester.

CONTRACTUAL AGREEMENT

A contractual agreement is between eligible and ineligible schools¹ or organizations, as defined in Chapter 1 of this publication. Under such an agreement, the ineligible school or organization provides, under written contract, a portion of the eligible school's educational program.

There is a limit on the portion of the program that can be given at the ineligible school. If both the home and ineligible schools are owned or controlled by the same individual, partnership, or corporation, no more than 25% of the educational program can be provided by the ineligible school. If the two schools are separately owned or controlled, the ineligible school can provide up to 50% of the educational program. However, in the case of separately owned schools, if the contracted portion is more than 25% of the program, the home school's accrediting agency or state agency (in the case of a public postsecondary vocational institution) must determine and confirm in writing that the agreement meets its standards for contracting out education services.

Under a contractual agreement, the eligible school is always the home school. The home school performs all the aid processing and delivery functions for its students attending the ineligible school or organization. The home school is responsible for maintaining all

1. An eligible school may not contract with an ineligible school that has been terminated from SFA Program participation or has withdrawn from SFA Program participation while under a termination, show-cause, suspension, or similar proceeding by a state licensing agency, accrediting agency, guaranty agency, or the Department.

records necessary to document student eligibility and receipt of aid. (See Chapter 8 for record requirements.)

“Contracted portion of an educational program” covers situations ranging from a “junior year abroad” program to a portion of a cosmetology program given by an ineligible cosmetology school under contract with an eligible community college or vocational-technical school. In the traditional academic community, a baccalaureate institution does not jeopardize its eligible programs if no more than one academic year is spent by students at an ineligible institution, such as a foreign institution under the junior year abroad concept. At schools that predominantly grant associate degrees, eligible programs are not jeopardized if students spend no more than one semester or one quarter studying under contract at an ineligible school. (Of course, students may exceed these limits and take up to 50% of the program at a separately owned school if the school’s accrediting agency has approved the contractual agreement.)

STUDY ABROAD OR DOMESTIC EXCHANGE PROGRAMS

Students usually participate in study abroad or domestic exchange programs in one of two ways:

- by paying tuition and fees directly to the school the student is temporarily attending (for example, through an out-of-state tuition waiver system), or
- by paying tuition and fees at the home school, while taking courses at another school.

Some students have had problems receiving SFA Program funds for study abroad or domestic exchange programs, because neither the student’s home school nor the school the student is temporarily attending considers the student enrolled in an eligible program of study. These circumstances have caused otherwise eligible students to be denied financial assistance at both schools.

The law states that a student participating in a study abroad program is eligible for SFA funds, regardless of whether the program is required for the student’s regular, eligible program of study, as long as the student is an eligible regular student enrolled in an eligible program at the home school. The study abroad program must be part of a written contractual agreement between the two schools, and the program must be accepted for credit by the home institution. (The program does not have to be required for the eligible program in which the student is enrolled at the home institution for it to be accepted for credit.) The law also includes this item in the Program Participation Agreement.

Applying for and Maintaining Participation in the SFA Programs

In this chapter, we will discuss how and when a school applies for approval to participate in any Student Financial Assistance (SFA) Program. We also discuss changes that can affect a school's participation and how and when to report these changes.

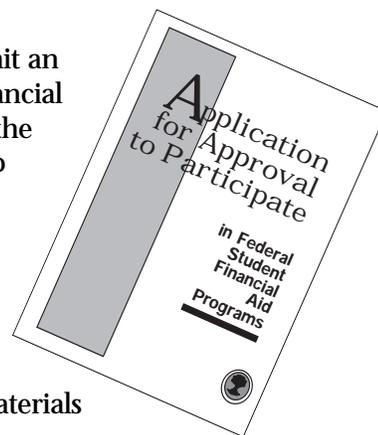
APPLYING TO PARTICIPATE

To participate in any of the SFA Programs—the Pell Grant Program, the Federal Direct Loan Program, the Federal Family Education Loan (FFEL) Program, and the campus-based programs (Federal Supplemental Educational Opportunity Grant [FSEOG], Federal Work-Study [FWS], and Federal Perkins Loan)—a school must be certified by the Department.

To apply for institutional participation, a school must submit an Application for Approval to Participate in Federal Student Financial Aid Programs (Application) to the Department. In evaluating the school and deciding whether to approve or deny the request to participate in any SFA Program, the Department examines the Application and accompanying submissions. In addition, for schools that are participating or have participated in the SFA Programs, the Department will examine a school's audits and program reviews. The Department also will check to see if a school has submitted all the required financial statements and compliance audits. The Department may request additional materials (such as school catalogs or copies of contracts with third-party servicers) and ask additional questions. Note that, effective October 1, 1998, the Higher Education Amendments of 1998, Public Law 105-244 (Amendments of 1998) allow a school to provide a copy of its contract with a third-party servicer upon request, rather than requiring that it be submitted as part of the certification process.

The Department uses this information to examine three major factors about the school: institutional eligibility, administrative capability, and financial responsibility. Each of these subjects is discussed in detail in Chapters 1-4. The Amendments of 1998 clarify that the Application is to contain information that allows the Department to evaluate a school's financial responsibility and administrative capability. In addition, the Amendments require that the Application provide, at the option of a school, for participation in one or more of the FFEL and Direct Loan programs. (Both of these provisions are effective October 1, 1998.)

Application Form
Sec. 498(b)



Amendments
of 1998

Amendments
of 1998

When to Complete an Application

A school submits a materially complete application to the Department when it

- wishes to be approved for the first time (initial certification) to participate in the SFA Programs;
- undergoes a change in ownership, a conversion for a for-profit institution to a nonprofit institution or vice versa, or a merger of two or more institutions (referred to collectively as a “change in ownership, structure or governance” for the remainder of the chapter) and wishes to participate in the SFA Programs;
- wishes to be reapproved (recertification) to participate in the SFA Programs (the application must be completed 90 days before the expiration of the current Program Participation Agreement (PPA));
- wishes to be designated as an “eligible institution” so that its students may receive deferments under the SFA Programs, its students may be eligible for the HOPE Scholarship tax credit, or so that the school may apply to participate in federal HEA programs other than the SFA Programs; or
- wishes to be reinstated to participate in the SFA Programs.

Each of these five circumstances is discussed in more detail later in this chapter.

Electronic application

Applications for recertification, reinstatement, or reporting changes to previous applications must be submitted to the Department electronically through the Internet (for more information on required electronic processes, see Chapter 3 “Administrative Capability”). A signature page is required and must be mailed separately along with all required supporting documentation. The Department has made the Application available on the Department’s web site on the World Wide Web. The address is

<http://www.eligcert.ed.gov>

At the time this publication goes to print, schools may not submit applications for initial certification or applications for a first-time eligible institution designation over the Internet. The Department provides the Application to a school seeking initial certification or a first-time eligible institution designations in a paper version. A school seeking initial certification or a first-time eligible

institution designation can request an Application from the Department's Institutional Participation and Oversight Service (IPOS):

U.S. Department of Education
Institutional Participation and Oversight Service
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026-4805
Telephone: 202-260-3270

In addition, the Application is available in Portable Document Format (PDF). A school seeking initial certification or a first-time eligible institution designation may download this version from the World Wide Web. The address is

<http://www.eligcert.ed.gov/>

The school must then complete and return the Application to the Institutional Participation and Oversight Service, along with photocopies of requested documents. An Application sent by mail should be sent to the Department address listed above. An Application sent by overnight mail/courier delivery service should be sent to

U.S. Department of Education
Institutional Participation and Oversight Service
7th and D Streets, SW
GSA Building, Room 3514
Washington, DC 20407

For each version of the Application, the Department recommends that the school keep a copy of its application (and supporting documents) and retain proof of the date when it submitted the Application. The completed version of the Application—paper or electronic—is sent to the Department. With each version, the school must submit the paper page containing the original authorizing signature of the school's President/Chief Executive Officer (CEO)/Chancellor.

This Application is divided into 13 sections, plus a glossary at the end.

<i>This Section ...</i>	<i>Is for ...</i>
A through D	General questions about the school.
E and F	Questions about educational programs and locations that the school wishes to be eligible for SFA Programs.
G	Questions about telecommunications and/or correspondence (tele/corr) courses, students enrolled under ability-to-benefit provisions, and incarcerated students.
H	Schools that are initial applicants, schools with a change in ownership or structure, and schools seeking reinstatement.
I	Foreign institutions, including foreign graduate medical schools.
J	Questions about third-party servicers that perform any function relating to the school's SFA Programs.
K	Questions about the school's administrative capability and financial responsibility.
L	The school's President/CEO/Chancellor to sign.
M	A checklist of copies of documents that must be included, as applicable. ¹
Glossary	Specific definitions of terms used in the application.

¹These include the school's current letter of accreditation; valid state authorization; and, in some cases, audited financial statements, a default management plan and, for a school undergoing a change in ownership, an audited balance sheet showing the financial condition of the school at the time of the change in ownership.

If a school has questions, it is encouraged to contact the Institutional Participation and Oversight Service.

Submission Time Frames

An application with missing information or materials that are still to come is considered incomplete. The time frames for submitting a materially complete application depend on a school's current status:

- A school seeking initial certification to participate in the SFA Programs may submit an Application to the Department at any time.¹
- A school that undergoes a change in ownership, structure, or governance and wishes to participate in the SFA Programs must notify the Department in writing no later than 10 calendar days after the change becomes effective. If this date falls on a weekend or a federal holiday, the notification may be no later than the next business day. After the school receives its state and accrediting agency approvals, it must submit the Application electronically and send photocopies of the approvals to the Department. See page 219 in this chapter for more information on changes in ownership, structure, or governance.
- A school seeking to be recertified to continue to participate in the SFA Programs should submit an Application before the expiration date listed in its Program Participation Agreement (PPA). If the school submits its materially complete application to the Department no later than 90 calendar days before its PPA expires, its eligibility to participate in the SFA Programs continues until its application is either approved or not approved. This is true even if the Department does not complete its evaluation of the application before the PPA's expiration date. (For example, if a school's PPA expires on June 30 and it submits its Application by April 1, the school remains certified during the Department's review period—even if the review period extends beyond June 30.) If the 90th day before the PPA's expiration falls on a weekend or a federal holiday and the school submits its application no later than the next business day, the Department considers the application to be submitted 90 days before the PPA expires. If the school's application is not received at least 90 days before the PPA expires or is not materially complete, the school's PPA will expire and the SFA Program funding will cease.
- A school that wishes to apply to become an eligible institution so that its students may receive deferments under federal student loan programs, be eligible for the HOPE Scholarship tax credit, or so that it may participate in federal HEA programs other than the SFA Programs, may submit an Application to the Department at any time.

Materially Complete

An institution submits a materially complete application if it submits a fully completed application form supported by

- *a copy of the institution's state license or other equivalent document authorizing the institution to provide a program of postsecondary education in the state in which it is physically located,*
- *a copy of a document from its accrediting agency that grants it accreditation status, including approval of the non-degree programs it offers, and*
- *any other required supporting documentation.*

1. In the case of a proprietary institution and a postsecondary vocational institution, there is an eligibility requirement that the school must have been providing the same or similar postsecondary instruction continuously for at least two consecutive years before it can participate in the SFA Programs. This is known as the Two-Year Rule. (See Chapter 1.)

Expiration of Certification

Sec. 498(g)

- A school that voluntarily left the SFA Programs may seek to be reinstated at any time. A school that was terminated from the SFA Programs or that left because it was about to be terminated or otherwise sanctioned generally must wait 18 months before applying for reinstatement.

Amendments
of 1998

The 1992 reauthorization of the HEA required that every four years a school must be reapproved (recertified) to participate in the SFA Programs. The Amendments of 1998 extend the certification period to up to 6 years. In addition, the Amendments of 1998 require the Department to notify schools six months in advance of the expiration of their certification.

CLARIFICATION

The date of submission for an electronic application is the date a school uses the "Submit Application" page to electronically submit the application or the date the signature page and supporting documents were postmarked or sent by a delivery service, whichever is later. For an application that is mailed or delivered, the Department considers the date of submission to be the postmark date or a delivery service's or courier's written verification or printout of the shipping date.

Status Following Submission

Following submission of an Application, the Department will contact the school if it has additional questions about the application. Generally, this will be within 90 days of the Department receiving an application. Depending on the outcome of its review, the Department either will send a school copies of the PPA to sign (and further instructions) or notify it that its application is not approved.

During the Department's application review period, a school's status is as follows:

- If a school has never been certified (and it is seeking initial certification), it will not be considered certified during the Department's review period.
- The Amendments of 1998 allow the Department to grant provisional certification to a school seeking approval of a change in ownership based on the Department's preliminary review of a materially complete application that is received by the Department within 10 business days of the transaction for which approval is sought. If the Department grants provisional certification under these conditions, the provisional certification expires no later than the end of the month following the month in which the transaction occurred. If the Department has not issued a decision on the application within that period, the Department may extend the school's provisional certification status on a month-to-month basis until a decision is issued. This provision is effective October 1, 1998.

Amendments
of 1998

- If a school has a change in ownership, structure or governance, and does not submit an Application within 10 business days of the transaction for which approval is sought, its participation in the SFA Programs stops. The institution may not award SFA Program funds beginning on the date that the change becomes effective until it receives a new PPA signed on behalf of the Secretary of Education. (Exceptions for unpaid commitments of SFA Program funds are discussed on page 222).
- If a school is certified (and it is seeking recertification), it will remain certified during the Department's review period if it submitted its application during the correct time frame described earlier in this Chapter.
- If a school has never been an eligible institution under the HEA, it will not be considered eligible during the Department's review period.
- If a school once participated in the SFA Programs but no longer does so, it will not be considered certified during the Department's review period.

PPA and ECAR

If the Department approves a school's application, the Department sends the school two copies of a PPA (see Chapter 2). The PPA includes the date on which the school's eligibility to participate expires. The school must sign and return both copies of the PPA to the Department. The Department then sends the school an Eligibility and Certification Approval Report (ECAR) and the school's copy of the PPA, signed and dated on behalf of the Secretary. The ECAR contains the most critical of the data elements that form the basis of the school's approval and also a list of the highest level of offering, any nondegree program or short-term programs, and any additional locations that have been approved for the SFA Programs. Both of these forms must be kept available to be reviewed by auditors and Department officials, including the SFA Program reviewers.

Effective Date for Participation

The date the PPA is signed on behalf of the Secretary is the date the school may begin SFA Program participation. (Currently, there are additional steps that must be taken for participation in the Direct Loan Program. For more information, see the *SFA Handbook: Direct Loan and FFEL Programs Reference*.) Pell Grant and campus-based program disbursements to students may begin in the payment period that the PPA is signed on behalf of the Secretary. FFEL and Direct Loan program disbursements may begin in the loan period that the PPA is signed on behalf of the Secretary. The Department's Program Systems Service and regional offices are notified, as well as state guaranty agencies, that the school is approved to participate in the SFA Programs.

Site Visits

Sec. 498(f)

Amendments
of 1998

Site Visits

Prior to the Amendments of 1998, the law required the Department to conduct a site visit at each school before the school was certified or recertified for participation in the SFA Programs. The Department was permitted to establish priorities about how schools are selected to receive site visits. In addition, the Department was permitted to coordinate the site visits with site visits by states, guaranty agencies, and accrediting agencies to eliminate duplication and reduce administrative burden. Finally, the Department was permitted to charge to cover the expense of site visits and certification.

Provisional Certification

Sec. 498(h)

The Amendments of 1998 make site visits as part of the certification and recertification process permissive rather than mandatory. The Department is now required, rather than permitted, to establish priorities about how institutions are selected to receive site visits and to coordinate conducting site visits to the extent practicable with other agencies. The Amendments also repeal the ability of the Department to charge fees for site visits and certification costs. This provision is effective October 1, 1998.

Provisional Certification

In certain cases, rather than granting full approval to participate, the Department may grant a school conditional approval to participate in the SFA Programs (for up to three complete award years). Referred to as “provisional certification” in the law, this approval is granted at the Department’s discretion.

The Department will, if it approves the school, offer provisional certification to a school that allowed its PPA to expire and reapplied to participate in the SFA Programs after its approval to participate ended. (Note: If a school applying for recertification meets the submission deadlines detailed in the introduction to the Application, its PPA remains in effect until the Department either approves or does not approve the application.) If the Department grants a provisional certification, the PPA details the provisions of the certification.

Other times provisional certification may be used are when

- a participating school whose participation has been limited or suspended (or that voluntarily agrees to this provisional status) is judged by the Department to be in an administrative or financial condition that might jeopardize its ability to perform its responsibilities under its PPA,
- a participating school’s accrediting agency loses its Departmental approval (it may be provisionally certified for no more than 18 months after the agency’s loss of approval),
- it is determined that a school is not financially responsible but the school has met other requirements and has accepted provisional certification, or
- a school that is reapplying for certification has a high default rate.

Provisional certification is always used when

- a school is applying to participate for the first time (if approved, it will be provisionally certified for no more than one complete award year), and
- a participating school is reapplying because it has undergone a change in ownership, structure or governance, for no more than three complete award years (see the discussion of “Change in ownership, structure or governance” on page 219).

Revoking Provisional Certification

If the Department determines that a school with provisional certification cannot meet its responsibilities under its PPA, the Department may revoke the school’s participation in the SFA Programs. The Department will notify the school of such a determination in a notice that states the basis and consequences of the determination. The notice is sent by certified mail (or other expeditious means); the revocation takes effect on the last day of the month that the Department mails the notice.

The school may request a redetermination of the revocation by submitting, within 20 days of receiving the notice, written evidence (filed by hand delivery, mail, or fax) that the finding is unwarranted. A Department official will review the request and notify the school by certified mail of his or her decision. If the Department official determines that the revocation is warranted, the school may not apply for reinstatement for 18 months after the revocation or after the expiration of any debarment/suspension action, whichever is later.

PRECERTIFICATION TRAINING REQUIREMENT

In order to participate in any SFA Program, a school must send two representatives (an administrative official and a financial aid representative) to a basic precertification training workshop offered by the Department. The Department also requires a school that has undergone a change in ownership, structure or governance to attend the training.

Note: The Application now allows a school to select the SFA Program(s) it wishes to participate in and opt not to participate in others. If the school later decides that it would like approval to participate in SFA Programs in addition to the ones indicated on its submitted Application, it is required to send representatives to precertification training again. This is because the law requires that training must take place before each first-time approval to participate in an SFA Program is granted. However, if the school’s designated representatives attended the Department’s required precertification training within the last year, rather than attend training again the school may request that the Department conduct an on-site review. An on-site review may be granted at the Department’s discretion.

The precertification workshop provides a general overview of the SFA Programs and their administration. It does not cover fiscal and accounting procedures in detail; the Department offers fiscal officer training separately.

- The attending administrative official must be the school's CEO for a for-profit school; nonprofit schools may send another official designated by the CEO. The administrative official must attend at least the first two days of the workshop.
- The attending financial aid representative must be the person designated by the school to be responsible for administering the SFA Programs. The financial aid representative must attend all four days of the workshop.
- If the school uses a consultant to administer its financial aid, the consultant must attend the training as the school's financial aid representative. Because the school ultimately is responsible for proper SFA Program administration, the Department strongly recommends that a financial aid employee from the school attend the training as well.

A school affected by this precertification training requirement will receive notification of the requirement, a schedule of workshops, and registration instructions along with an Application. The school will not be approved to participate in the SFA Programs until the training requirement is met.

The regulations allow schools to meet the precertification requirement by sending the specified individuals to other training programs that are approved by the Department. However, at this time no precertification training programs other than the Department's have been approved.

WHEN TO SUBMIT A MATERIALLY COMPLETE APPLICATION

As mentioned previously, there are five circumstances when a school that wishes to participate in SFA Programs must submit a materially complete Application to the Department:

- initial certification,
- change in ownership, structure or governance,
- recertification,
- designation as an "eligible institution," and
- reinstatement

Other types of changes require a school to notify the Department (see page 225).

Initial Certification

A school must submit a materially complete Application the first time it wishes to participate in one or more SFA Programs.

Changes in Ownership, Structure
or Governance
Sec. 498(i)

Change in Ownership, Structure or Governance

A school must submit a materially complete Application following a change in ownership, a conversion to a nonprofit institution, or a merger of two or more schools (referred to collectively as a “change in ownership and structure”). In these cases, the law states that the PPA signed by the former owner automatically expires on the date when the change takes place, and the school’s SFA participation ends. The school retains its default rates and other administrative capability factors; if it is a proprietary institution or postsecondary vocational institution, it does not, however, need to meet the Two-Year Rule.

The Department must be notified of the change within 10 days and, if the school wishes to reestablish its eligibility to participate in one or more SFA Programs, an Application must be submitted and approved. Notification of changes in ownership, structure or governance must be made to

U.S. Department of Education
Institutional Participation and Oversight Service
Accreditation and Eligibility Determination Division
Initial Participation Branch
400 Maryland Avenue, SW
Washington, DC 20202-5244
FAX: (202) 260-3270

As mentioned previously, the Amendments of 1998 allow the Department to grant provisional certification to a school seeking approval of a change in ownership based on the Department’s preliminary review of a materially complete application that is received by the Department within 10 business days of the transaction for which approval is sought. If the Department grants provisional certification under these conditions, the provisional certification expires no later than the end of the month following the month in which the transaction occurred. If the Department has not issued a decision on the application within that period, the Department may extend the school’s provisional certification status on a month-to-month basis until a decision is issued.

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Change in Controlling Interest

A change in ownership and control occurs when a person or corporation obtains new authority to control a school’s actions, whether the school is a proprietorship, partnership, or corporation. The most common example of this change in controlling interest is when the school is sold to a prospective owner.

Control of a school can change in other ways, too. For instance, a school can convert from a for-profit to a nonprofit institution (or vice versa). This is a change in tax status. A school’s control may change when two or more schools merge or one school divides into several

Family Member

A family member is defined as a parent, sibling, spouse, child, spouse's parent, spouse's sibling, or child's spouse.

schools. A school's control also changes in situations where a school transfers a significant amount of stock to another person or corporation or when a school transfers its assets or liabilities to another corporation (including related corporations under the same ownership).

Ownership Interest

Ownership interest is a share of the legal or beneficial ownership or control of the school or parent corporation, or a right to share in the proceeds of the operation of the school or parent corporation.

A change in ownership and control of a corporation that is neither closely held nor required to be registered with the Securities Exchange Commission (SEC) occurs when a person who has or acquires an ownership interest acquires both control of at least 25% of the total outstanding voting stock of the corporation and managing control of the corporation.

(For a more detailed list of the types of circumstances that signify a change in ownership, structure or governance, see 34 CFR 600.31.)

Owner's Death or Retirement

However, a school does not automatically have to submit a materially complete Application to the Department when a change in ownership and control is caused by the owner's death or retirement and ownership transfers to a family member or to a person with ownership interest who has been involved in the management of the school for at least two years preceding the transfer. In these situations, the school must notify the Department of the change and provide any supporting information requested by the Department.

The law requires that a school must report to the Department the identity of every owner or person directly or indirectly holding 25% or greater interest in the school.

Changes in Ownership Interest and 25% Threshold

The school must report any change in ownership interests whenever

- an owner acquires a total interest of 25% or greater,
- an owner who held 25% or greater interest reduces his or her interest to less than 25%, or
- an owner of 25% or greater interest increases or reduces his or her interest but remains the holder of at least 25% ownership interest.

Because of these reporting requirements, even though transferring ownership interest through death or retirement may be excluded from being considered a change in ownership resulting in a change of control, the resulting change in percentage(s) of ownership interests must be reported to the Department.

Reporting

A school must report any changes that result in an individual or owner (including a corporation or unincorporated business entity) acquiring the ability to substantially affect the actions of the school. Such a change must be reported within 10 days of the change; a school owned by a publicly traded corporation must report the change within 10 days after the corporation learns of the change. All schools are subject to these requirements, which are enforced during the institutional participation approval process, program reviews, and audit process.

An individual or corporation has the ability to substantially affect the school's actions when he or she or it

- personally holds, or holds in partnership with one or more family members, at least a 25% ownership interest in the school,
- personally represents (with voting trust, power of attorney, or proxy authority), or represents in partnership with one or more family members, any individual or group holding at least a 25% ownership interest in the school,
- is the school's chief executive officer (or other executive officer) or a member of the school's board of directors, or
- is the chief executive officer (or other officer) for any entity that holds at least 25% ownership interest in the school, or is a member of the board of directors for such an entity.

The regulations [34 CFR Part 600.30(e) and 668.15(f)] include examples of ownership interest as an interest as tenant, joint tenant, or tenant by the entirety, a partnership, and an interest in a trust. The regulations specifically exclude from the term the proceeds of the operation of a mutual fund that is regularly and publicly traded, an institutional investor, or a profit-sharing plan that covers all employees (except that voting rights of employee stock plans may be attributed to anyone having authority to vote those shares).

To ensure that its SFA Program participation isn't jeopardized, a school must report an ownership change (including the name[s] of the person[s] involved) to the Department. On receiving the notification, the Department will investigate and notify the school whether a change in ownership resulting in a change of control has occurred that will require the school to submit a materially complete Application if it wishes to participate in the SFA Programs.

Steps to be Taken by Former Owners

If a school is changing control, the former owner(s) must notify the Department about the change and the date it occurs. This must be at the same time that the owner notifies the school's accrediting agency, but no later than 10 days after the change occurs. (If the former owner fails to notify the Department, the prospective owner is responsible for doing so.) The current owner also should notify the appropriate state agency that licensed or approved the school.

Payments to Eligible Students

Before the change in ownership, structure or governance takes place, the former owner should make sure that all students receive any SFA payments already due them for the current payment period and that all records are current and comply with federal regulations. If the school needs additional funds for its students for the current payment period, it should request them and disburse them to all eligible students before the change takes place.

The school loses its approval to participate in the SFA Programs when the change takes place. Generally, a school may

- use Pell Grant or campus-based funds that it has received or request additional Pell Grant or campus-based funds from the Department to satisfy any unpaid commitment made to a student from the date the school's participation ended until the scheduled completion date of the payment period, and
- credit a student's account with the proceeds of a second or subsequent disbursement of a FFEL Stafford or a Direct Loan to satisfy any unpaid commitment made to the student under the FFEL Stafford or Direct Loan Program from the date participation ends until the scheduled completion of that period of enrollment. (The proceeds of the first disbursement of the loan must have been delivered to the student or credited to the student's account prior to the end of the participation.)

The school should notify all new students that no federal aid funds can be disbursed until the school's eligibility is established and a new PPA signed by the Department is received.

The school may not award the SFA Program funds beginning on the date that the change becomes effective. If the school's prospective owner(s) wish the school to participate in one or more of the SFA Programs, the school must submit a materially complete Application to the Department.

Steps to be Taken by Prospective Owners

The prospective owner should request that the former owner provide copies of the school's existing ECAR, refund policy, any required default management plan, program reviews, audited financial statements (for at least the two most recently completed fiscal years), compliance audits, and an audited balance sheet showing the financial

condition of the institution at the time of the change. The prospective owner will need this information to receive approval to participate.

Accompanying the application must be audited financial statements for the school's two most recently completed fiscal years, an audited balance sheet showing the financial condition of the school at the time of the change, and a default management plan, if required. Each participating school must demonstrate financial responsibility independently. If the entity that has acquired the school is an ongoing entity (partnership or corporation), the school must also submit completed audited financial statements of the acquiring entity for the last two consecutive fiscal years. (For information on financial responsibility and submitting audited financial statements, see Chapter 2.)

The school also must submit proof that its accreditation is continued under the new ownership or control, along with a photocopy of its state legal authorization under the new ownership.

The school may not award SFA Program funds until it receives a PPA signed on behalf of the Secretary.

Accepting Liabilities and Refund Policy

If the prospective owner(s) acquired the school or if the school is the result of a merger of two or more former schools, the prospective owner is liable for any debts from the former owner's SFA Program administration. The prospective owner accepts liability for any federal funds that were given to the school but that were improperly spent before the date the change in ownership, structure or governance became effective. The prospective owner must also abide by the refund policy for students enrolled before the date the change became effective and must honor all student enrollment contracts signed before the date of the change.

Effect of Cohort Default Requirements

As mentioned earlier, the school retains its current and past cohort default rates and must implement any requirements associated with those rates. In fact, cohort default rates calculated for fiscal years prior to the change in ownership may affect the school's SFA participation. A school with a change in ownership, structure or governance may be denied approval to participate in the SFA Programs on the basis of current default rates.

Prior to the Amendments of 1998, a prospective owner was required to submit a new default management plan with the Application regardless of the level of the school's cohort default rate.

However, the Amendments of 1998 exempt a school from submitting a default management plan if (a) neither the subordinate institution nor parent institution has a cohort default rate of 10 percent or less and (b) the prospective owner does not own, and has not owned, any other school with a cohort default rate in excess of 10 percent. This provision is effective October 1, 1998.

Default Management Plan Required
Sec. 487(a)

Amendments
of 1998

Expiration of Certification
Sec. 498(g)

Audits and Closeout Procedures

Although a separate financial aid compliance audit is not required when there is a change in ownership, structure or governance, the prospective owner may choose to have the accounts audited before they are closed out. Any questions about SFA accounts or close-out procedures can be answered by the Department's Financial Management Specialists for the Pell Grant, campus-based, Direct Loan, or FFEL program. The prospective owner also should check with the Department's appropriate case management team for information on whether the school owes any Department liabilities resulting from program reviews or audits. See Chapter 11 for phone numbers.

Before the date of purchase, the prospective owner should make sure that all students have received their SFA Program award payments for payment periods and periods of enrollment that began before the date of purchase, that all SFA Program accounts have been closed out, and that all related reports have been filed properly.

Once the Department determines that a school that has undergone a change in ownership, structure or governance is eligible to participate in the SFA Programs, a new ECAR and signed PPA will be sent and appropriate offices will be notified that the school is certified to participate under the new ownership. The school may begin disbursing the SFA Program funds in the payment period or loan period (as applicable) in which the new PPA is signed on behalf of the Secretary.

Recertification

A school that wishes to continue participating in the SFA Programs must submit a materially complete Application requesting recertification 90 days prior to the expiration date on its current PPA or the Department otherwise notifies it that recertification is necessary. See page 213 for more information on time frames for submitting a recertification application.

Amendments
of 1998

As mentioned previously, the 1992 reauthorization of the HEA required that every four years a school must be reapproved (recertified) to participate in the SFA Programs. The Amendments of 1998 extend the certification period to up to 6 years. In addition, the Amendments of 1998 require the Department to notify schools six months in advance of the expiration of their certification.

In addition, the Amendments direct the Department to publish special recertification regulations for foreign schools that receive less than \$500,000 in FFEL loan funds.

Designation as an Eligible Institution

A school must submit a materially complete Application requesting this certification category when it wishes to be designated as an eligible institution under the HEA but does not wish to participate to the point of awarding federal financial aid funds.

A school may request this type of limited designation so the school's students may receive deferments under federal student loan programs, be eligible for the HOPE Scholarship tax credit, or so the school may apply to participate in HEA programs other than the SFA Programs.

To meet the requirements for its students to defer student loan payments and to take part in other HEA programs, the school is required to be approved as an eligible institution—it is not actually required to award SFA funds. (See Chapter 1 for information on what constitutes an eligible institution.)

Reinstatement

A school must submit a materially complete Application requesting reinstatement when it wishes to participate again in one or more SFA Programs after voluntarily or involuntarily leaving the SFA Programs.

A school that voluntarily left one or more SFA Programs (and did not leave because of action about to be taken by the Department) may apply for reinstatement at any time.

A school that the Department terminated from participating in one or more SFA Programs (or that left one or more SFA Programs because it was about to be terminated or sanctioned) has a waiting period before it may apply to be reinstated.

SUBSTANTIVE CHANGES AND HOW TO REPORT THEM

A school is required to report changes to certain information on its approved Application. Some of these changes require the Department's written approval before the school may disburse the SFA Program funds, others do not (see the charts that follow).

Changes That Require the Department's Written Approval

(The number in parentheses refers to the number of the question on the Application.)

All Schools

- Change in accrediting agency* (#15)
- Change in state authorizing agency (#17)
- Change in institutional structure (#18)
- Change in educational programs outside of the scope of current approval (#26)
- Addition of nondegree programs outside of the scope of current approval (#27)
- Change from or to clock hours or credit hours (#27)
- Addition of a location (#30)
- Change to the SFA Programs for which the school is approved** (#37)

For-profit Schools Only

- Change in the type of ownership (#22)
- Change in ownership (#24)

*Notify the Department when you BEGIN making ANY change that deals with your school's institution-wide accreditation.

**Approvals from your accrediting agency and state authorizing agency are NOT required for this change.

When one of the changes that requires the Department's written approval occurs, a school must notify the Department by

1) reporting the change and the date of the change to the Department via the electronic application within 10 calendar days of the change, and

2) As soon as the school has received approvals for the change from its accrediting agency and state authorizing agency it must send to the Department

- copies of the approval for the change,
- any required documentation, and
- Section L of the Application containing the original signature of the appropriate person.

Changes Not Requiring the Department's Written Approval

All Schools

- Change to name of school* (#2)
- Change to the name of a CEO, President, Chancellor (#10)
- Change to the name of the chief fiscal officer, financial officer (#11)
- Address change for a principal location* (#29)
- Address change for other locations* (#30)
- Change to the school's third-party servicers that deal with the SFA Program funds (#58)

Private nonprofit and for-profit schools only

- Change to the Board of Directors (but not trustees) (#20)

Foreign schools only (including foreign graduate medical schools)

- Change to postsecondary authorization (#42)
- Change to degree authorization (#43)
- Change to program equivalence (#44)
- Change to program criteria (#45)
- Change to U.S. administrative and/or recruitment offices (#46)

Foreign graduate medical schools only

- Change to facility at which school provides graduate medical instruction (#47)
- Change to authorizing entity (#48)
- Change to approval of authorizing entity (#49)
- Change to length of program (#50)
- Change to programs located in the United States (#51)

*As soon as it has received approvals for the change from its accrediting agency and state authorization agency, a school must send the Department copies of the approvals for change.

When one of these changes occurs, a school must notify the Department by reporting the change and the date of the change to the Department via the electronic application within 10 calendar days of the change. In addition, the letter must include

- any required documentation, and
- Section L of the Application containing the original signature of the appropriate person.

Note that, for a change requiring written approval from the Department (unless otherwise noted) and for some changes that do not require written approval from the Department (noted on chart), a school must obtain approval from the appropriate accrediting agency and state authorizing agency.

Notifications of changes in ownership, structure or governance must be made to the Institutional Participation and Oversight Service at the address on page 219.

All other notifications must be sent by U.S. Postal Service to

U.S. Department of Education
Institutional Participation and Oversight Service
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026-4805

or by commercial courier/overnight mail to

U.S. Department of Education
Institutional Participation and Oversight Service
Room 3514
7th and D Streets, SW-GSA Building
Washington, DC 20407

Notification of School Closure or Bankruptcy

If a change occurs in an Application item not listed in one of the two charts, the school must update the information when it applies for recertification. However, if a school closes or files for bankruptcy, the school must notify the Department within 10 calendar days of either event by sending a letter on the school's letterhead that indicates the date the school closed or plans to close, or the date the school filed for bankruptcy, as appropriate.

When the Department is notified of a change, if further action is needed, it will tell the school how to proceed, including what materials and what additional completed sections of the Application need to be submitted. If a school has questions about changes and procedures, it should contact the Institutional Participation and Oversight Service.

After receiving the required materials (and depending on the circumstances), the Department will evaluate the change(s) and either approve or deny the change and notify the school.

ADDING LOCATIONS OR PROGRAMS

The ECAR that the Department sends to the school lists the educational programs and locations that are eligible. (The eligibility of a school and its programs does not automatically include separate locations and extensions.) If, after receipt of the ECAR, a school wishes to add a location at which at least 50% of an educational program is offered, it must notify the Department.

Upon receipt of this notice, the Department will either confirm the program's eligibility without requiring an application or will instruct the school to apply for an eligibility and certification determination. (A school that is adding a location must be able to show the Department that the location is properly accredited and licensed by the state.)

For a location to be added, it must meet all institutional eligibility requirements as described in Chapter 1, except the Two-Year Rule. Each site must be legally authorized. To apply for a determination of eligibility for an added location, the school must send the Department the required application sections, a copy of the accrediting agency's notice certifying that the new location is included in the school's accredited status, and a copy of the state legal authorization from each state in which the school is physically located.

The Department will review the information, and will evaluate the school's financial responsibility, administrative capability, and eligibility. Depending upon the circumstances, the Department may conduct an on-site review. If it approves the additional location, a revised ECAR and Approval Letter will be issued. The location is eligible as of the date of the Department's determination. The Department may require a recertification application and a new PPA, in which case the school may disburse funds to students enrolled at that location only after both the school and the Secretary have signed the new PPA. The Department will send the school a revised ECAR.

Note that if a proprietary institution or a postsecondary vocational institution attempts to acquire a closed school (or any locations of a closed school) as an additional location, and that closed school owes SFA refunds or liabilities that are not being properly repaid, the acquiring school must either assume responsibility for those liabilities or wait two years for that additional location to become eligible. (This applies to any acquisition of the closed school's assets, even an indirect acquisition.) The acquiring school will also receive a recalculated default rate because the acquiring school assumes the default rate of the closed school (or any additional locations of the closed school).

When School May Make Program Eligibility Determination

If a school adds an educational program after receiving its ECAR, there are two cases in which the school itself may determine the program's eligibility:

- the added program leads to an associate, bachelor's, professional, or graduate degree (and the school has already been approved to offer programs at that level); or
- the added program is at least 8 semester hours, 12 quarter hours, or 600 clock hours in length and prepares students for gainful employment in the same or related recognized occupation as an educational program that the Secretary already has designated as an eligible program at the school.

Before the school may determine these programs to be eligible and disburse funds to enrolled students, the school must have received both the required state and accrediting agency approvals.

Note, however, that if the school's self-determination of eligibility for an educational program is found to be incorrect, the school is liable for all SFA Program funds received for the program and all SFA Program funds received by or for students enrolled in that program.

Department Must Approve All Other Added Programs

In all other cases, the eligibility of an added educational program must be determined by the Department before the SFA Program funds can be awarded. The school must submit the required Application sections and a copy of approval of the new program from its accrediting agency and state authorizing agency. The Department will evaluate the new program and the school. If it approves the additional program, a revised ECAR and Approval Letter is issued for the school, and the school is eligible as of the date of the Department's determination. The school may begin to disburse the SFA Program funds to students enrolled in that program. (For more on program eligibility, see Chapter 1.)

Waivers

The law mandates percentages of telecommunications and/or correspondence courses, students enrolled under ability-to-benefit provisions, and incarcerated students at a participating school. If there is a change to any of a school's answers to the Yes/No questions in Section G of a submitted Application (which deal with enrollment thresholds in these areas), the school must notify the Department. The Department will advise the school of its options, including whether the school might be eligible for a waiver. (For more information, see Chapter 1.)

Changes in Accreditation

If a school decides to change its primary accrediting agency, it must notify the Institutional Participation and Oversight Service when it begins the process of obtaining accreditation from the second agency. As part of this notice, the school must submit materials relating to its prior accreditation, and materials demonstrating a reasonable cause for changing its accrediting agency. If a school fails to properly notify the Department, the Department will no longer recognize the school's existing accreditation.

If a school decides to become accredited by more than one institutional accrediting agency, it must submit to the Institutional Participation and Oversight Service (and to its current and prospective agency) the reasons for accreditation by more than one agency. This submission must be made when the school begins the process of obtaining the additional accreditation. If a school obtains additional accreditation and fails to properly submit to the Department its reasons for the additional accreditation, the Department will not recognize the school's accredited status with either agency.

If the Department ceases to recognize a school's accreditation, the school is no longer eligible to award SFA Program funds or take part in other programs under the Higher Education Act of 1965, as amended.

If a school becomes accredited by more than one agency, it must notify the Institutional Participation and Oversight Service of which agency's accreditation the school will use for the purpose of determining the school's institutional eligibility for the SFA Programs.

SINGLE IDENTIFIER INITIATIVE

The Department is taking steps to designate a single identification number for schools that participate in the SFA Programs. This single identification number will replace the multiple identification numbers that schools currently use for a variety of SFA Program functions. In 1997, the Department asked schools to verify all active and inactive program identifiers. In December 1998, the Department permanently warehoused these program identifier "crosswalks" in the Postsecondary Education Participant System (PEPS).



Originally, the Department planned to use an eight-digit OPEID as the single identifier. The Department was to implement the OPEID by the 1999-2000 award year. However, while the Single Identifier Initiative was in progress, President Clinton mandated implementation of recommendations to initiate electronic commerce on a government-wide basis. As a part of President Clinton's mandate, federal agencies and departments have adopted the Dun and Bradstreet Information Corporation's numbering system, the Data Universal Numbering (D-U-N-S), as a principal contractor, vendor and grantee identification code. A "Dear Colleague" letter published in March 1998 (GEN-98-8) provided schools with a detailed update of these changes.

Quality Assurance Program
Sec. 487(a)

The Department will implement the D-U-N-S identification system as the Single Identifier for all SFA participants: schools, lenders, servicers, and guarantors. The Department is examining the feasibility of implementing the D-U-N-S identification system as part of the software development for the 2001-2002 need analysis cycle beginning January 1, 2001 for the award year beginning July 1, 2001.

For additional information, a school may access the web site, <http://www.sii.ed.gov> or call 202-708-4608.

QUALITY ASSURANCE PROGRAM

Under the Quality Assurance (QA) Program, schools design and establish a comprehensive quality improvement program to increase award accuracy and strengthen their administration and delivery of SFA Programs and services. The emphasis of this program is on prevention or up-front correction and partnerships. It provides schools with the tools and incentives to accurately and effectively deliver student aid and to improve their service to students. It is based on the principles of Total Quality Management, with an annual cycle of assessment and problem identification with measurement, solution design and implementation, and monitoring of results for continuous improvement.

QA Program schools are exempt from certain verification requirements because they develop a school-specific program based on data gathered in the cycle of QA Program activities. Annual reporting requirements and periodic Quality Assurance site visits help ensure accountability and program integrity, and provide technical assistance. Schools that are interested in QA Program participation should contact the Performance and Accountability Improvement Branch at the following address or phone number:

U.S. Department of Education/OPE/SFAP/IPOS
Performance and Accountability Improvement Branch
400 Maryland Ave., SW
ROB-3, Room 3925
Washington, DC 20202-5232
(202) 260-4788

If a school is interested in conducting a self assessment of its policies, procedures, and overall compliance with SFA requirements, it can use the "Comprehensive Management Assessments" instrument used in the QA Program. This assessment is universally applicable, helping any school determine its strengths and weaknesses in the following areas: institutional participation, fiscal management, recipient eligibility, award calculation and disbursement, and reporting and reconciliation.

Even if a school is not interested in participating in the QA Program, it would benefit from this self-assessment exercise. This assessment was made available to all schools during the 1997-98 award year.

The Amendments of 1998 made the following changes to the specific provisions governing the Quality Assurance Program:

- The current provisions relating to data verification are expanded to include the development and implementation of systems for processing and disbursing student aid and entrance and exit interviews.
- The criteria for the selection of participants are expanded to include a requirement to ensure the selection of a diverse group of schools with respect to size, mission, and geographical distribution.
- The Department is authorized to waive regulations dealing with reporting or verification requirements in the SFA Programs that are addressed in the institution's alternative management plan and prohibits the Department from waiving any statutory provisions.
- The Department is required to review and evaluate the QA Program conducted at each participating institution and to make recommendations to Congress regarding amendments to the law to streamline the administration and enhance the integrity of the student aid programs.

These provisions are NOT subject to the negotiated rulemaking process. All are effective October 1, 1998.

Experimental Sites Initiative
Sec. 487(a)

Amendments
of 1998

EXPERIMENTAL SITES INITIATIVE

If a school believes that it has a better way to administer aspects of the SFA Programs than the way required by statute or regulation, it may apply to be an "experimental site." Using the authority under section 487A(d) of the Higher Education Act, the Department has approved exemptions to a variety of SFA statutory and regulatory requirements. So far, over 160 schools have been designated as experimental sites.

Thirteen areas of experimentation have been approved since the 1995-96 award year. They are

- entrance loan counseling,
- exit loan counseling,
- multiple disbursement for single term loans,
- thirty-day delay in loan disbursements for first-time, first-year borrowers,
- loan fees in cost of attendance,
- loan proration for graduating borrowers,

- crediting SFA funds to prior year charges,
- crediting SFA funds to institutional charges,
- overaward tolerance,
- academic term,
- federal work-study time records
- federal work-study payment, and
- ability to benefit.

The effective dates for the first nine experiments are July 1, 1995 to June 30, 2000. The effective dates for the last four experiments are July 1, 1997 to June 30, 2002.

This partnership between ED and institutions encourages schools to develop and test alternative approaches to the current prescriptive requirements. By allowing flexibility in how entrance loan counseling is handled, for example, schools might develop methods that are less administratively burdensome, but more effective in providing loan information. The Department will use results from these experiences to continue reforming administration of the SFA Programs.

Amendments
of 1998

The Amendments of 1998 made several changes to the provisions that govern the Experimental Sites Initiative:

- The Department is authorized to continue any experimental sites in existence on the date of enactment. Any previously approved activities that are not consistent with the Amendments must be discontinued no later than June 30, 1999.
- The Department must review and report to Congress on the experience of institutions that participated in the experimental sites program from 1993-1998. The report must include a list of participants and their experiments, the findings and conclusions resulting from those experiments, and recommendations for amendments to the law. Upon the submission of this report, the Department may select a limited number of institutions for participation as experimental sites to provide recommendations to the Department on the impact and effectiveness of proposed regulations or new management initiatives.
- Prior to approving additional experimental sites, the Department must consult with Congress and provide a list of institutions and the specific regulatory and statutory waivers, a statement of the objectives to be achieved, and the time period for the experiment.
- The Department may waive statutory requirements for participating schools based on the experiment except that the

Secretary may not waive provisions related to award rules, grant and loan maximums, and need analysis requirements.

These provisions are NOT subject to the negotiated rulemaking process. All are effective October 1, 1998.

For further information on the experimental sites initiative, please call the Performance and Accountability Improvement Branch at 202-260-4788.

In this chapter we will discuss the oversight responsibilities of accrediting agencies, states, and the Department. This oversight is necessary to ensure the integrity of the SFA Programs.

STATE AND ACCREDITING AGENCY ROLES

Part H of the HEA prescribes requirements for ensuring the integrity of the SFA Programs. In addition to the oversight responsibilities of the federal government, states and accrediting agencies play a part in overseeing a school's operations.

State Role

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) officially repealed the State Postsecondary Review Program and replaced it with a subpart on the state role. (The State Postsecondary Review Program was added to the Higher Education Act in 1992; however, funds were never appropriated for the program.)

The law now requires that each state (through at least one state agency):

- furnish the Department, upon request, with information regarding licensing and other authorization for a school to operate in that state,
- promptly notify the Department of revocations of licensure or authorization, and
- promptly notify the Department of credible evidence that a school has committed fraud in the administration of the SFA Programs or has substantially violated a provision of the HEA.

These amendments to the law are all effective as of October 1, 1998.

State Role Cite

Subpart 1 of part H of the HEA

Amendments
of 1998

Accrediting Agency Role
Subpart 2 of part H of the HEA

Accrediting Agency Role

The law establishes the general requirements for the recognition of accrediting agencies. One of these requirements states that an accrediting agency must meet criteria established by the Department. These criteria, which are found in 34 CFR part 602, allow the Department to determine whether it believes an accrediting agency to be a reliable authority on the quality of education offered by a school.

An accrediting agency can be recognized for institutional or programmatic accreditation. An institutional accrediting agency accredits the entire school. A programmatic accrediting agency accredits specific educational programs that prepare students for entry into a profession, occupation, or vocation.

An agency must have standards that effectively address the quality of a school or program in the following areas:

- Success with respect to student achievement in relation to mission, including, as appropriate, consideration of course completion, state licensing examination, and job placement rates.
- Curricula.
- Faculty.
- Facilities, equipment, and supplies.
- Fiscal and administrative capacity.
- Student support services.
- Recruiting and admissions practices, academic calendars, catalogs, publications, grading, and advertising.
- Measures of program length and the objectives of the degrees or credentials offered (see list of changes by the Amendments of 1998 below).
- Record of student complaints received by, or available to, the agency.
- Record of compliance with the school's SFA Program responsibilities, based on items such as default rate data, and the results of compliance audits and program reviews, and
- Any additional accreditation standards the accrediting agency deems appropriate.

Amendments
of 1998

The Amendments of 1998 clarify that the Department will recognize, rather than approve, accrediting agencies. The Amendments also clarify that the Department establishes criteria, rather than standards, for such recognition. The Amendments of 1998

also made the following changes to the statutory accreditation requirements:

- To qualify as a nationally recognized accrediting agency, an agency must apply and enforce standards for accreditation that ensure that distance learning courses of study at a school are of sufficient quality to achieve their stated objectives for the duration of the school's accreditation period.
- To be a nationally recognized agency, an agency is required to have standards to assess a school. The Amendments alter the list of required standards by deleting the consideration of program length and tuition and fees in relation to the subject matter taught, and now require that the agency standards consider "measures of program length" and the objectives of the degree or credential offered.
- The requirements for unannounced site visits by an accrediting agency are changed from requiring at least one visit at schools providing vocational education and training, to authorizing, but not requiring, unannounced site visits at any school.
- More detailed procedures are provided for the Department to follow in making determinations concerning the limitation, suspension, or termination of an agency's recognition as a nationally recognized accrediting agency.

These amendments to the law are all effective as of October 1, 1998.

THE DEPARTMENT'S ROLE

One of the Department's functions is to oversee the SFA Programs to ensure that they are administered properly. In this chapter we will discuss the two major types of oversight review, audits and program reviews, that are conducted at schools that participate in the SFA Programs. This chapter also includes information on requirements when a school's eligibility and/or participation ends and information on corrective actions and sanctions.

If in a program review or audit a school is identified as having disbursed improperly SFA Program funds, the school must restore those funds as appropriate. Program reviews and audits are not conducted solely to recover funds, but also to identify procedural problems at the school and recommend solutions.

If a school is cited for fraud or other serious program abuses in a program review or audit, the school may be subject to corrective action and/or sanctions, such as fines, emergency action, or limitation, suspension, or termination which are discussed later in this chapter.



Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Department of Education, call 1-888-REG-Fair (1-888-734-3247).

Audit Requirements for Schools *Sec. 497(c)(1)(A)*

Independent Auditor

An independent CPA or government auditor, except that a government auditor must meet the Government Auditing Standards qualification and independence standard, including standards related to organizational independence.

Audit Requirements for Schools

The law requires that a school that participates in any SFA Program, including participating foreign schools, must have an independent auditor conduct, at least once a year, an audit of a school's compliance with the laws and regulations that are applicable to the SFA Programs in which the school participates (a "compliance audit"), and an audit of the school's financial statements (a "financial statements audit").

While a compliance audit covers the school's administration of the SFA Programs, a financial statements audit provides the Department with information necessary to evaluate a school's financial responsibility (see Chapter 4.)

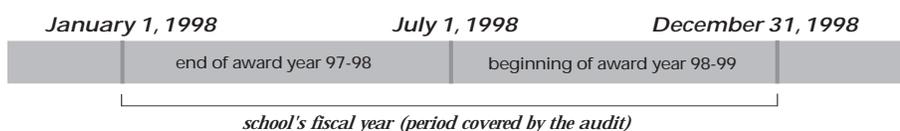
As in the past, schools can meet these audit requirements by having an audit performed under the guidelines of the Department's *SFA Audit Guide, Compliance Audits, Attestation Engagements of Federal Student Financial Assistance Programs at Participating Institutions* or, if applicable, by having an audit performed under the guidelines of the Single Audit Act (known as A-133 audits). Single Audit Act audits are discussed on page 241.

Simultaneous Audit Submissions

A school that has an audit performed under the SFA Audit Guide must submit simultaneously both the compliance audit and the audited financial statements within six months of the end of the school's fiscal year. Both the compliance audit and the financial statements audit must be performed on a fiscal year basis. In addition, both audits must be prepared in accordance with Generally Accepted Government Auditing Standards (GAGAS). The compliance audit and financial statements audit may be performed by different auditors. However, both audits must be submitted as one package.

The compliance audit of a school that has a fiscal year that does not coincide with an award year will cover parts of two award years (see the example below).

Fiscal Year Not Equal to Award Year Example



The definition of independent auditor makes clear that the compliance and financial statements audits submitted under these regulations must be performed by independent certified public accountants (CPAs) or by government auditors that meet certain governmental standards.

The Amendments of 1998 created an exception to the annual audit requirement. A school may submit compliance and financial statements audits every three years (rather than every year), at the Department's discretion, if the school

Amendments
of 1998

- receives less than \$200,000 in SFA Program funds during the two award years prior to the audit period, and
- submits a letter of credit for at least half of the annual potential liabilities as determined by the Department.

This exception to the annual audit requirement may not be granted for the award year preceding a school's required recertification. This exception does not apply to foreign schools.

The Office of Inspector General (OIG) also conducts audits, usually in cases where there may be concern over the school's administration of the SFA Programs. A federal audit such as this does not satisfy the requirement that a school have an annual compliance and financial statements audit.

Types of Audit Guidelines

As mentioned previously, in addition to audits performed under the SFA Audit Guide, audits performed under the guidelines of the Single Audit Act (chapter 75 of Title 31, U.S.C.) will also meet the Department's audit requirements.

The type of audit a school or servicer may have depends on its method of control: public, for profit, or nonprofit. All for-profit schools must comply with the audit requirement by having an SFA compliance audit under the criteria of the Department's SFA Audit Guide. All public and nonprofit schools must comply with the Single Audit Act, which requires these schools to have an audit performed in accordance with Office of Management and Budget's (OMB) Circular A-133. (Circular A-133 allows an SFA compliance audit under the criteria of the Department's Audit Guide under limited circumstances.)

Circular A-133 is titled *Audits of States, Local Governments, and Non-Profit Organizations* and is applicable to nonprofit postsecondary schools, states, local governments, and Indian tribal governments. For many schools, this is a combined audit of all the federal programs at that school. OMB circular A-133 is available through the OMB Home Page at <http://www1.whitehouse.gov/WH/EOP/OMB/html/circulars/a133/a133.html>, or by calling OMB's Publication Office at (202) 395-7332.

Audits performed under the Single Audit Act have distinct auditing and submission requirements. A school submitting an audit under the guidelines of the Single Audit Act must use the submission deadlines established by the Single Audit Act.

CLARIFICATION

Under the requirements of Circular A-133, a school that expends less than \$300,000 of federal funds during a fiscal year is exempt from submitting the annual A-133 audit. However, if such a school has financial statements, the Department may request them. The financial statements can be submitted to the Department unaudited.

Circular A-133 permits the submission of program-specific audits if an entity expends funds in only one federal program AND the program's regulations do not require a financial statements audit. Because the SFA Program regulations do require a financial statements audit, a school may not submit a program-specific audit to satisfy the Department's audit submission requirements.

Audit Submission Dates

As mentioned previously, beginning with the 1997-98 award year, a school's or servicer's annual compliance and financial statements audit performed under the SFA Audit Guide must be based upon the fiscal year and submitted to the Department within six months after the end of the school's or servicer's fiscal year. (Again, these requirements do not apply to audits performed under the Single Audit Act, which are due as specified in OMB Circular A-133.)

The chart that follows lists audit due dates and what period the audit must cover for audits due in 1999 and 2000 (this chart provides information for the most common institutional fiscal year end dates).

Audit submission due dates for 1999 and 2000

<i>School's fiscal year end date</i>	<i>Both audits due</i>	<i>Period audited (financial and compliance)</i>	<i>School's fiscal year end date</i>	<i>Both audits due</i>	<i>Period audited (financial and compliance)</i>
September 30, 1998	March 31, 1999	October 1, 1997 through September 30, 1998	September 30, 1999	March 31, 2000	October 1, 1998 through September 30, 1999
December 31, 1998	June 30, 1999	January 1, 1998 through December 31, 1998	December 31, 1999	June 30, 2000	January 1, 1999 through December 31, 1999
March 31, 1999	September 30, 1999	April 1, 1998 through March 31, 1999	March 31, 2000	September 30, 2000	April 1, 1999 through March 31, 2000
June 30, 1999	December 31, 1999	July 1, 1998 through June 30, 1999	June 30, 2000	December 31, 2000	July 1, 1999 through June 30, 2000

Generally, a school's first audit performed under these requirements must cover the entire period of time since the school began to participate in the SFA Programs. Each subsequent audit must cover the period since the preceding audit that is accepted by the Department.

Compliance Audit Submission Requirements

The compliance audit must be conducted in accordance with

- the general standards and the standards for compliance audits contained in the U.S. General Accounting Office's (GAO's) Government Auditing Standards, and
- applicable audit guides from the Department's Office of the Inspector General.

In conducting an audit, a school or servicer and its auditor should use the Department of Education's latest SFA Audit Guide, the accounting and recordkeeping manual for the SFA Programs (known as The Blue Book), and the ED Payment System Users Manual or GAPS Users Guide, as applicable.

Schools may request copies of the SFA Audit Guide and The Blue Book by writing to: Federal Student Information Center, P.O. Box 84, Washington, DC 20044.

The auditor or auditing firm the school or servicer uses for its required nonfederal audit may be the same one that usually audits the school's or servicer's fiscal transactions. To produce unbiased conclusions, the auditor must be independent of those authorizing the expenditure of SFA Program funds.

The Department may require a school to provide a copy of its compliance audit report to guaranty agencies, lenders, state agencies, the Department of Veterans Affairs, or accrediting agencies.

Financial Statements Audit Submission Requirements

A school's audited financial statements must cover the school's most recently completed fiscal year. The Department uses the information in a school's audited financial statements to evaluate the school's financial responsibility (see Chapter 4). In addition to a school's audited financial statements, the Department may require that the school submit additional information. For example, the Department may require a school to submit or provide access to the accountant's work papers. Also, if the Department finds it necessary to evaluate a particular school's financial condition, the Department can require a school to submit a audited financial statements more frequently than once a year.

Financial statements must be prepared on an accrual basis in accordance with generally accepted accounting principles (GAAP), and audited by an independent auditor in accordance with GAGAS

and other guidance contained in OMB Circular A-133, or in audit guides from the Department's Office of the Inspector General, as applicable.

Consolidated Statements

In some cases, a school's relationship with another entity may cause the Department to require a school to submit additional financial statements of the school and the entity, such as: audited consolidated financial statements; audited full consolidating financial statements; audited combined financial statements; or, under certain circumstances, audited financial statements of one or more related parties. This occurs when the Department determines that the activities or financial health of another entity may impact upon the school's total financial health. So that the Department can make this determination, a school must include in its audited financial statements a detailed description of related entities based on the definition of a related entity in the Statement of Financial Accounting Standards (SFAS) 57. In addition, the description must include all related parties and a level of detail that would enable the Department to identify readily the related party. This information may include, but is not limited to, the name, location, and description of the related entity, including the nature and amount of any transaction between the related party and the school, financial or otherwise, regardless of when it occurred.

A proprietary school must disclose the percentage of its revenues derived from the SFA Programs that the school received during the fiscal year covered by the audit as a footnote to its audited financial statements. Guidance on footnote disclosure can be found in the SFA Audit Guide, and in 34 CFR 600.5, and appropriate accounting references. Information regarding the calculation of this percentage (the "90/10 Rule") is found in Chapter 1.

Audits for Foreign Schools

Foreign schools must also submit an annual compliance audit and audited financial statements. However, because financial responsibility requirements vary for foreign schools based on the amount of SFA Program funds received by the school, the requirements for preparation of the financial statements also vary. A school that received less than \$500,000 (in U.S. dollars) in SFA Program funds during its most recently completed fiscal year may have its audited financial statements prepared according to the standards of the school's home country. A foreign school that received \$500,000 or more in SFA Program funds during its most recently completed fiscal year must have its audited financial statements translated and presented for analysis under U.S. Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS). See Chapter 4 for more information on financial responsibility determinations for foreign schools.

Audits for Third-Party Servicers

There are also annual audited financial statements and compliance audit requirements for third-party servicers. A third-party

servicer must submit an annual compliance audit. However, if a servicer contracts with only one SFA school, and that school's own audit sufficiently covers all the functions performed by the servicer, the servicer does not have to submit a compliance audit. If a servicer contracts with several SFA schools, a single compliance audit can be performed that covers all its administrative services for each school. A servicer must submit its compliance audit within six months after the last day of the servicer's fiscal year. The Department may require a servicer to provide a copy of its compliance audit report to guaranty agencies, lenders, state agencies, the Department of Veterans Affairs, or accrediting agencies.

In addition to submitting a compliance audit, a servicer that enters into a contract with a lender or guaranty agency to administer any aspect of the lender's or guaranty agency's programs must submit annually audited financial statements. The financial statements must be prepared on an accrual basis in accordance with generally accepted accounting principles (GAAP) and audited by an independent auditor in accordance with GAGAS and any other guidance contained in audit guides issued by the Department's Office of the Inspector General.

Guidance for audits of third-party servicers is found in the Lender-Servicer Audit Guide, published in December 1996 and in the SFA Audit Guide.

The July 1997 SFA Audit Guide announced that the first audit for a third-party servicer was due within six months after the issuance of the 1997 SFA Audit Guide, or six months after the end of the servicer's fiscal year, whichever was later.



A school may never use a third-party servicer's audit in place of its own required audit, because the school is ultimately liable for its own violations as well as those incurred by its third-party servicers. See Chapter 2 for more information on third-party servicers.

Having the Audit Performed

The school or servicer must make its program and fiscal records, as well as individual student records, available to the auditor. (Required recordkeeping is discussed in Chapter 8.) Both the financial aid and business offices should be aware of the dates the auditors will be at the school, and make sure that someone is on hand to provide requested documents and answer questions during that period.

At the end of the on-site review, the auditor will hold an exit interview. At a school, this exit interview is usually conducted with the personnel from the school's financial aid and other relevant offices. The exit interview is not only an opportunity for the auditor to suggest improvements in procedures, but it also gives the school or servicer a chance to discuss the draft report and review any discrepancies cited in the report. The exit interview is a good time to resolve any disagreements before the final report is prepared.

Access

Includes the right to copy records (including computer records), to examine computer programs and data, and to interview employees without the presence of management or the presence of the school's or a servicer's tape recorder.

The final report will be prepared by the auditor and submitted to the school or servicer.

Submitting Audits

The school or servicer must submit five copies of the SFA Audit Guide audit report and the school's or servicer's Corrective Action Plan (CAP) to the Department's Data Management and Analysis Division at the following address:

By U.S. Postal Service:

U.S. Department of Education
Institutional Participation and Oversight Service
P.O. Box 44805
L'Enfant Plaza Station
Washington, DC 20026-4805

By commercial overnight mail/courier delivery:

U.S. Department of Education
Institutional Participation and Oversight Service
7th & D Streets, S.W.
GSA Building, Room 3514
Washington, DC 20407

A-133 audits must be submitted to the

Federal Audit Clearinghouse
Bureau of the Census
P.O. Box 5000
Jeffersonville, Indiana 47199-5000

The Federal Audit Clearinghouse will process these audits for the Department. Although the OIG is not the submission point for these audits, the OIG will provide technical assistance on these audits to schools and auditors.

For an audit performed under the Department's SFA Audit Guide, the Department reviews the audit report for format, completeness, and to ensure that it complies with the government's auditing standards.

Based on the audit findings and the school's or servicer's written explanation, the Department will determine if any funds were spent improperly. The school or servicer must repay any improperly spent funds within 45 days, unless the school or servicer has properly appealed the decision.

Access to Records

Once the audit is complete, the school or servicer must give the Department and the OIG access to any records or other documents necessary to review the audit. A school that uses a third-party servicer must also give the Department and the OIG access to records or other documents necessary to review a third-party servicer's compliance or

financial statements audit. In addition, the school's or servicer's contract with the auditor must specify that the auditor will also give the Department and the OIG access to the records and documents related to the audit, including work papers. In all cases, access to records includes the ability of the Department or OIG to make copies of the records.

Throughout the audit process, and for other examinations such as program reviews and state reviews, the school or servicer is required to cooperate fully with its independent auditor, the Department and its Inspector General, the Comptroller General of the United States, the appropriate guaranty agency and accrediting agency. Cooperation includes timely and reasonable access to records (including computer records) for examination and copying, and to personnel for the purpose of obtaining relevant information.

PROGRAM REVIEWS

In addition to reviewing audits, the Department conducts its own program reviews to identify possible problems in a school's SFA administration. A program review covers many of the same areas as an audit, including fiscal operations and accounting procedures, as well as the school's compliance with the specific program requirements for student eligibility and awards. However, program reviews tend to focus more on regulatory requirements that are specific to the SFA Programs. For example, the program review team will examine student records and admissions records, fund requests and transfers, records pertaining to due diligence and the collection of Federal Perkins Loans, time sheets and pay rates for the Federal Work-Study (FWS) Program, and documents related to the reporting process for the Federal Pell Grant and campus-based programs.

Selection of Schools for Review

The Amendments of 1998 require the Department to give priority in program reviews to schools that meet certain criteria. Prior to the Amendments, the law stated that the Department was permitted, but was not required, to give priority to schools that met the criteria specified in the law. These criteria (as modified by the Amendments where noted) are:



- A school has a cohort default rate in excess of 25 percent or a rate which places the school in the highest 25 percent of such schools;
- A school has a default rate in dollar volume which places the school in the highest 25 percent of such schools;
- A school has a significant fluctuation in Federal Stafford Loan volume, Direct Stafford Loan volume or Federal Pell Grant awards, that are not accounted for by changes in the programs; (The Amendments clarified that significant fluctuations in amounts of aid received by schools are those that do not relate

to programmatic changes and added Direct Loans to the list of programs.)

- A school is reported to have deficiencies or financial aid problems by the appropriate state agency or accrediting agency;
- A school has high annual dropout rates;
- It is determined by the Department that the school may pose a significant risk of failure to comply with the administrative capability or financial responsibility requirements. (The Amendments more clearly defined the other institutions that the Secretary may target for program reviews as those that pose a significant risk of failure.)

In addition, the Amendments added the following special administrative rules under which the Department is required to:

- Establish guidelines designed to ensure uniformity of practice in the conduct of program reviews.
- Make copies of all review guidelines and procedures available to all participating schools.
- Permit schools to correct administrative, accounting, or record keeping errors if the errors are not part of a pattern and there is no evidence of fraud or misconduct.
- Inform the appropriate state and accrediting agency whenever it takes action against a school.

The Amendments of 1998 also require civil penalties arising from a program review or audit to be based upon the gravity of the violation.

These provisions are not subject to the negotiated rulemaking process. These provisions are effective October 1, 1998.

Written Report

After the Department performs a program review of a school, the program review team prepares a written report that will be sent to the school within approximately 60 days of the review. The school may respond to this report if it wishes to offer additional information to support its position, or if it disagrees with any of the report's conclusions. When the Department has fully considered the school's response and all issues have been resolved, the Department official will send a copy of the final program review determination to the school.

It may occasionally be necessary for Department officials to perform an unannounced program review. The General Provisions regulations stipulate that Department officials provide a school with a written request for a program review, but do not preclude the

Department from providing such a request at the time the reviewers arrive at the school.

In an unannounced program review, the Department reviewers will present a written request to school officials before beginning the review. The school is expected to have its records organized and readily available, without objection to providing access to those records. However, because certain school officials may not be immediately available during the review, the school may be afforded additional time to submit information regarding the review findings. The Department has regulatory authority to take an emergency action if a school denies access to the reviewers performing an unannounced program review (see page 256). School officials will be informed if an emergency action is to be taken.

GUARANTY AGENCY REVIEWS

The FFEL Program regulations also require guaranty agencies to conduct program reviews at postsecondary schools. A guaranty agency must conduct biennial (once every two years) on-site reviews of at least all schools for which it is the principal guaranty agency that have a cohort default rate for either of the two preceding fiscal years that exceeds 20% (unless a the Department requires the school to take specific default reduction measures or if the total amount of loans entering repayment in each of those fiscal years does not exceed \$100,000). Alternatively, a guaranty agency may use its own criteria to select schools for the biennial on-site reviews if the Department approves the agency's proposed alternative selection methodology. A program review conducted by a guaranty agency is similar to a Department program review, consisting of an entrance interview, a review of student records, an exit interview, and a written report. However, the guaranty agency's review will focus on how the school meets FFEL-specific requirements, such as

- certification of the loan application,
- maintenance of records supporting the student's loan eligibility,
- processing procedures and payment of loan monies, and
- prompt lender notification when the student changes enrollment status, such as complete withdrawal.

Two copies of the guaranty agency's report are forwarded to the Department, including the school's payment if liabilities were assessed.

APPEALING AUDIT AND PROGRAM REVIEW DETERMINATIONS

The law allows for appeals of final audit or program review determinations. Note that only a final determination may be appealed. The letter conveying a final audit determination is clearly identified as a "FINAL AUDIT DETERMINATION LETTER" (FAD) and explains

the appeals procedures. For a program review, the final determination letter is marked “FINAL PROGRAM REVIEW DETERMINATION LETTER.”

If a school or servicer wants to appeal an audit or program review determination, it must appeal, in writing, to the Departmental official identified in the determination within 45 days after it receives the determination. If the school or servicer makes such a request, the determination will be reviewed by an impartial hearing official appointed by the Department. In most cases, an oral hearing will not be required. The school or servicer and the Department must submit briefs with any accompanying materials to the official, and provide the other party with a copy of its submission at the same time. If the final decision is appealed by either party, the Secretary will review it.

If the hearing official (or the Secretary) finds that the school or servicer improperly expended funds or otherwise failed to comply with applicable program rules and requirements, the Department will collect the liability owed, if any. The school or servicer must repay the funds within 45 days of the Department’s notification of the liability, unless the Department grants an extension. At its option, the Department may elect to use an administrative offset to collect the funds owed.

REQUIREMENTS WHEN A SCHOOL CEASES TO BE AN ELIGIBLE INSTITUTION

A school loses its eligibility to participate in the SFA Programs when it no longer meets the requirements of 34 CFR Part 600, certain requirements of Part 668 or when the Department terminates the school under Subpart G of the General Provisions. Examples of situations that trigger loss of eligibility to participate include

- excessive student-loan cohort default rates,
- loss of accreditation,
- loss of state licensure,
- the PPA expires or is terminated by the Department,
- provisional certification is revoked by the Department,
- the school closes or stops providing educational instruction (for a reason other than a normal vacation period or as a result of a natural disaster), and
- the school files a petition for bankruptcy.

In general, a school that ceases to be eligible must notify the Institutional Participation and Oversight Service within 30 days of its loss of eligibility to participate in the SFA Programs. Requirements for notifying the Department are in 34 CFR 600.40.

Loss of Accreditation

When a school loses its institution-wide accreditation, the Department generally may not certify or recertify that school to participate in any SFA Program for two years after the school has had its accreditation withdrawn, revoked, or otherwise terminated for cause or a school has voluntarily withdrawn under a show cause or suspension order. If a school wishes to be reinstated, it must submit a fully completed Application to the Department.

Exceptions

The Department will not recertify a school that has lost its institution-wide accreditation in the previous two years unless the original accrediting agency rescinds its decision to terminate the school's accreditation. (The school may not be recertified on the basis of accreditation granted by a different accrediting agency during the two-year period.) Similarly, if a school voluntarily withdrew from accreditation during the last two years under a "show cause" or suspension order, the Department will not recertify unless the original order is rescinded by the accrediting agency.

Other exceptions:

- If the Department determines that loss of institution-wide accreditation was due to the school's religious mission or affiliation, the school can remain certified for up to 18 months while it obtains alternative accreditation; and
- If a school's institution-wide accrediting agency loses its Department recognition, the school has up to 18 months to obtain new accreditation.

Note that it is possible for accreditation to be withdrawn from one of the programs at a school without affecting the accreditation (and eligibility) of other programs at the school.

REQUIREMENTS WHEN A SCHOOL'S SFA PARTICIPATION ENDS

A school may stop participating in the SFA Programs voluntarily or it may be required to leave involuntarily. In either situation, there are required close-out procedures to follow.

A separate close out audit is not required if a school closes a branch campus because the next due compliance audit for the school must report on the use of SFA Program funds at the closed location. However, the school must notify the Department of the branch closure. See Chapter 10 for information on reporting information to the Department.

CLARIFICATION

VOLUNTARY WITHDRAWAL FROM SFA PARTICIPATION

A school may voluntarily withdraw from participating in one or all of the SFA Programs. This might be for any number of reasons. For

instance, a school might wish to withdraw from the Perkins Loan Program to work on lowering high student-loan cohort default rates. To withdraw from one or all of the SFA Programs, the school must notify the Department in writing at the general address for the Institutional Participation and Oversight Service (see page 211). For more information on these requirements and procedures, contact the appropriate case management team. Note: A school that withdrew voluntarily (for instance, to lower its default rate) can request to participate again without the waiting period required for a school that was terminated from the program involuntarily or withdrew voluntarily while under a show cause or suspension order.

Withdrawing from the SFA Programs while under a termination order or other sanction—or to avoid being placed under them—is not considered voluntary withdrawal.

INVOLUNTARY WITHDRAWAL FROM SFA PARTICIPATION

A school's participation ends in the following circumstances:

- The school closes or stops providing instruction (for a reason other than normal vacation periods or as a result of a natural disaster that directly affects the school or its students). Note: If the school closes its main campus or stops providing instruction on its main campus, its loss of eligibility includes all its locations and programs.
- The school loses its eligibility.
- The school's participation is terminated under Subpart G.
- The school's period of participation expires or the school's provisional certification is revoked.
- The school's PPA is terminated or expired.
- The school's cohort default rate exceeds the limit.

If a school ceases to provide educational instruction in all programs, the school should make arrangements for its students to complete their programs. If the school chooses to enter into a formal teachout arrangement, the school should contact the appropriate case management team for guidance.

When Participation Ends

When a school's participation in an SFA Program ends—for whatever reason—the school must immediately notify the Department and comply with the following minimum requirements:

- Within 45 days of the effective ending date of participation, submit to the Department all financial reports, performance reports and other reports required by each appropriate SFA Program regulation, as well as a dated letter of engagement for an audit by an independent public accountant (IPA) of all SFA

Program funds received under the program(s). The completed audit report must be submitted to the Department within 45 days after the date of the letter of engagement.

- Report to the Department on the arrangements for retaining and storing (for the remainder of the appropriate retention period described in 34 CFR 668.24) all records concerning the school's management of the appropriate SFA Programs. (See Chapter 8.)
- Tell the Department how the school will provide for collecting any outstanding SFA Program student loans held by the school.
- Refund students' unearned tuition and fees. (See Chapter 6.)

Additional Closeout Procedures

In addition, a school that closes must refund to the federal government or, following written instructions from the Department, otherwise distribute any unexpended SFA Program funds it has received (minus its administrative cost allowance, if applicable). The school must also return to the appropriate lender(s) any loan proceeds the school received but has not disbursed to students. If the school's participation in the State Student Incentive Grant (SSIG) Program ends, the school must inform the state and follow the state's instructions.

If a school's participation ends during a payment period (or enrollment period for FFEL Programs), but the school continues to provide education in the formerly eligible program until the end of the payment or enrollment period, the school may

- use the SFA Program funds in its possession to satisfy unpaid Pell Grant or campus-based program commitments made to students for that payment period or for previously completed payment periods before the school's participation ended. (The school may request additional funds from the Department to meet these commitments.)
- satisfy any unpaid FFEL commitments made to students for that period of enrollment by delivering subsequent FFEL disbursements to the students or by crediting them to the students' accounts (if the first disbursement already was delivered or credited before the school's participation ended).
- use the SFA Program funds in its possession to satisfy unpaid Direct Loan commitments made to students for that period of enrollment before participation ended by delivering subsequent Direct Loan disbursements to the students or by crediting them to their accounts (if the first disbursement already was delivered or credited to the students' accounts before the school's participation ended). The school may request additional funds from the Department to fulfill this commitment.

Contact the Department's appropriate regional office staff for guidance in fulfilling these requirements and responsibilities.

CASE MANAGEMENT

Case management is the Department's new approach to oversight of schools that participate in the SFA Programs. Case management is designed to provide the Department with a thorough picture of a school's overall compliance through the use of Case Teams.



The Department's Institutional Participation and Oversight Service (IPOS) has Case Teams which are composed of both regional and Washington, DC staff. Each team is assigned a portfolio of schools. The team is responsible for all oversight functions for the schools in its portfolio. These functions include audit resolution, program reviews, financial statement analysis, and recertification. In addition, in January 1998, the Department announced the addition of Institutional Improvement Specialists for each Case Team. (See "Dear Colleague" letter GEN-98-4). The Institutional Improvement Specialists are responsible for compliance improvement. The Specialists seek to improve compliance by offering targeted technical assistance and presentations on IPOS-related policies and procedures.

Each school is assigned a Case Manager who leads the team in its evaluation of that school. The entire team will evaluate information on the school from a variety of sources to identify any compliance problems at the school. The team can then assess potential risk to the SFA Programs and determine appropriate action. Once appropriate actions are decided upon, the Case Manager assigned to the school ensures that the recommended actions are taken.

Case Teams will collect and review information on a school from many sources including, but not limited to

- applications for recertification,
- financial and compliance audits,
- state agencies,
- accrediting agencies and licensing boards,
- student complaints, and
- Department databases.

Possible Actions

A case team may decide to take actions which include, but are not limited to

- initiating recertification or provisional certification,
- initiating a program review,

- establishing liabilities,
- developing a strategy for providing technical assistance,
- transferring the school to the reimbursement payment method (see Chapter 5),
- requiring a letter of credit, and
- referring the school for an enforcement action.

Administrative Subpoena Authority Cite
Sec. 490A

Actions do not always have to be negative. For example, the case team can recommend a school for participation in the Quality Assurance Program (see Chapter 10.)

The Department will use a system of risk analysis to identify schools with the greatest need for oversight. The Department will use the analysis of various Department data systems to generate a risk score for a school. This will enable the Department to target resources to those schools that present the highest risk to the government.

Case management is beneficial to schools also because a school can contact one team that will have all information on the school available in one place. (For a list of contact phone numbers for the regional case management teams, see page 259.)

CORRECTIVE ACTIONS AND SANCTIONS

Administrative Subpoena Authority

The Amendments of 1998 give the Department the authority to issue administrative subpoenas to assist in conducting investigations of possible violations of the provisions of SFA Programs. In addition, the law authorizes the Department to request the Attorney General to invoke the assistance of any court of the United States for purposes of enforcement of a subpoena if necessary. This provision is effective October 1, 1998.

Amendments
of 1998

Sanctions

Sanctions include emergency actions, fines, limitations, suspensions, and terminations.

The Department will sanction any school that

- violates the law or regulations governing the SFA Programs, its PPA, or any agreement made under the law or regulations; and/or
- substantially misrepresents the nature of its educational programs, its financial charges, or its graduates' employability. (For details on misrepresentation, see Chapter 7.)

Similarly, the Department may also sanction a third-party servicer that performs functions related to the SFA Programs. Further, the

Department has the authority to sanction a group of schools or servicers if it finds that a person or entity with substantial control over all schools or servicers within the group has violated any of the SFA Program requirements or has been suspended or debarred from program participation. (See Chapter 2.)

Actions Due to Program Violations or Misrepresentation

If it appears that a school has violated the SFA Program requirements, the Department may allow the school to respond to the problem and indicate how it will correct it. If this informal approach fails to correct the situation, or if the school has repeatedly violated the law or regulations, the Department may take emergency action, fine the school, or initiate a limitation, suspension or termination of SFA Program participation.

In addition, the Department has the authority to terminate a school or program that no longer meets the eligibility criteria given in Chapter 1. For details on steps that a school should follow in any of these situations, see Subpart G of the General Provisions regulations and Section 600.41 of the Institutional Eligibility regulations.

Emergency Action

The Department may take emergency action to withhold SFA Program funds from a school or its students if the Department receives information, determined by a Department official to be reliable, that the school is violating applicable laws, regulations, special arrangements, agreements, or limitations. To take an emergency action, the Department official must determine that

- the school is misusing federal funds,
- immediate action is necessary to stop this misuse, and
- the potential loss outweighs the importance of using established procedures for limitation, suspension, and termination.

The school is notified by registered mail (or other expeditious means) of the emergency action and the reasons for it. The action becomes effective on the date the notice is mailed.

An emergency action suspends the school's participation in all SFA Programs and prohibits the school from disbursing SFA Program funds or certifying FFEL applications. The action may not last more than 30 days unless a limitation, suspension, or termination proceeding is initiated during that period. In that case, the emergency action is extended until the proceeding, including any appeal, is concluded. The school is given an opportunity to "show cause" that the action is unwarranted.

Fine

The Department may fine a school up \$25,000 for each statutory or regulatory violation. (The Department first notifies the school of its

intent to fine so the school can, if it chooses, request a hearing.) If the school is proven guilty of the violation(s), it may appeal to the Department for a compromise on the amount of the fine(s) imposed at the hearing. In determining the amount owed by the school, the Department will consider the school's size and the seriousness of its violation or misrepresentation.

Limitation

Under a limitation, a school agrees to abide by certain specific conditions or restrictions as it administers SFA Program funds; by doing so, it is allowed to continue participating in the SFA Programs. A limitation lasts for at least 12 months. If the school fails to abide by the limitation's conditions, a termination proceeding may be initiated.

Suspension

A suspension removes a school from participation in the SFA Programs for a period not to exceed 60 days (unless a limitation or termination or proceeding has begun). A suspension action is used when a school can be expected to correct an SFA Program violation in a short time.

Termination

A termination ends a school's participation in the SFA Programs. A school that has violated the law or regulations governing the SFA Programs, its PPA, or any other agreement made under SFA regulations and was terminated from participating in the SFA Programs generally may not apply to be reinstated for 18 months. A school that substantially misrepresented the nature of its educational programs, its financial charges, or the employability of its graduates, may not be reinstated for at least three months.

Corrective Action

As part of any fine, limitation, suspension, or termination proceeding, the Department may require a school to take corrective action. This may include making payments to eligible students or repaying illegally used funds to the Department. In addition, the Department may offset any funds to be repaid against any benefits or claims due the school.

Possibility of Reinstatement

As mentioned previously, a school requesting reinstatement in the SFA Programs must submit a fully completed Application to the Department and demonstrate that it meets the standards in Subpart B of the General Provisions. As part of the reinstatement process, the school must show that the school has corrected the violation(s) on which its termination was based, including repaying all funds (to the Department or to the eligible recipients) that were improperly received, disbursed, caused to be disbursed, or withheld. The Department may approve the request, deny the request, or approve the request subject to limitations (such as granting the school provisional certification). If the Department approves the reinstatement request, the school will receive a new ECAR and enter into a new PPA.

Criminal Penalties Cite
Sec 490

Criminal Penalties

The law provides that any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided or insured under Title IV of the Higher Education Amendments, or *attempts* to commit any of these crimes will be fined up to \$20,000 or imprisoned for up to 5 years, or both. If the amount of funds involved in the crime is \$200 or less, the person will be fined up to \$5,000 or imprisoned up to one year, or both.

Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of an SFA Program loan or attempts to do so, will, upon conviction, be fined up to \$10,000 or imprisoned for up to one year, or both.

Any person who knowingly and willfully makes, or attempts to make, an unlawful payment to an eligible lender of loans as an inducement to make, or to acquire by assignment, a loan insured under such part will, upon conviction, be fined up to \$10,000 or imprisoned for up to one year, or both.

Any person who knowingly and willfully destroys or conceals, or attempts to destroy or conceal, any record relating to the provision of SFA Program assistance with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, will, upon conviction, be fined up to \$20,000 or imprisoned up to 5 years, or both.

Case Management Teams Case Management Divisions Institutional Participation and Oversight Service

The Institutional Participation and Oversight Service contains four Case Management Divisions. These divisions perform similar functions, and each division is responsible for a separate section of the U.S. Each division implements the following case management team functions: audit resolution, program review, financial statement analysis, and recertification. The four divisions are:

- *Case Management Division Northeast*
- *Case Management Division Southeast*
- *Case Management Division Southwest*
- *Case Management Division Northwest*

The division functions are performed by teams headed by an Area Case Director and composed of staff from Washington, D.C. and the region. Each division contains two or more of these teams. Listed below are the teams, their telephone numbers, and the states each team is responsible for.

<i>Team</i>	<i>Telephone #</i>	<i>States Covered</i>
<i>Case Management Division Northeast</i>		
Boston Team	617-223-9338	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont
New York Team	212-264-4022	New Jersey, New York, Puerto Rico, and Virgin Islands
Philadelphia Team	215-656-6442	Delaware, Maryland, Pennsylvania, Virginia, W. Virginia, and the District of Columbia
<i>Case Management Division Southeast</i>		
Atlanta Team	404-562-6315	Alabama, Florida, Georgia, Mississippi, North Carolina, and South Carolina
Kansas City Team	816-880-4053	Iowa, Kansas, Kentucky, Missouri, Nebraska, and Tennessee
<i>Case Management Division Southwest</i>		
Dallas Team	214-880-3044	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas
San Francisco Team	415-556-4259	Arizona, California, Hawaii, Nevada, American Samoa, Guam, Republic of Palau, Republic of the Marshall Islands, Northern Marianas, and the Federated States of Micronesia
<i>Case Management Division Northwest</i>		
Chicago Team	312-886-8767	Illinois, Minnesota, Ohio, and Wisconsin
Seattle Team	206-287-1770	Alaska, Idaho, Oregon, Washington, and Indiana
Denver Team	303-844-3677	Colorado, Michigan, Montana, North Dakota, South Dakota, Utah, and Wyoming

The Case Management Division Northeast is also responsible for certification and monitoring of foreign schools. For information on foreign schools you should contact 202-708-9257.

In this chapter, we discuss the applicability of the SFA Program requirements to programs offered through distance education.

For some time now, schools have used various modes of delivering instruction to provide access to students who cannot or find it inconvenient to engage in traditional on-campus study. These modes of delivering include providing courses at off-campus sites or on weekend, correspondence study, and video based on televised instruction.

Distance education is not a new mode of delivery. However, the availability of new technologies and the Internet have spurred significant growth in the number and types of distance education programs schools offer today.

The result is that certain SFA Program requirements, which tend to be organized around the structures of on-campus instruction, restrict or not easily applied to distance education programs.

The Higher Education Amendments of 1998, Public Law 105-244 (the Amendments of 1998) address this growing problem by authorizing a Distance Education Demonstration Program (Demonstration Program). The Demonstration Program provides the opportunity for schools and the Department to experiment with various ways to assure integrity in the SFA Programs in these new distance education centers.

For currently existing distance education programs that are not part of the Demonstration Program, the guidance on the applicability of current SFA Program requirements, provided in Dear Colleague letter GEN-98-10, is applicable. This guidance is included below.

Distance Education Demonstration Program

Sec. 486

Distance Education

An educational process that is characterized by the separation, in time or place, of the student and instructor and includes courses offered principally through the use of various means including television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission; audio or computer conferencing; video cassettes or discs; or correspondence.

Amendments
of 1998

Amendments
of 1998

DISTANCE EDUCATION DEMONSTRATION PROGRAMS

Purpose of the Demonstration Program

The Distance Education Demonstration (DED) Program was created by the Amendments of 1998 to

- test the quality and viability of distance education programs,
- increase student access to higher education through distance education programs,
- help determine
 - △ the most effective means of delivering quality education through distance education programs,
 - △ specific statutory and regulatory provisions needing modification to provide greater access to distance education programs, and
 - △ the appropriate levels of Federal student assistance for students enrolled in distance education programs.

Waivers of SFA Program Requirements

The Department may waive for schools in the demonstration program specific requirements in Parts F and G of the HEA related to computer costs, weeks of instruction, the Correspondence Course Limitation, and the Correspondence Student Limitation, and regulations that inhibit the operation of distance education. (For more information on the Correspondence Course Limitation, and the Correspondence Student Limitation, see Chapter 1).

Eligible Applicants

The Department is authorized to select institutions, systems of institutions, or consortia of institutions to participate in the demonstration program. On February 4, 1999, the Department published in the *Federal Register* a Notice inviting applications for participation in the Demonstration Program. Applications were due by April 1, 1999.

A school was eligible to apply to participate in the Demonstration Program if it:

- Is located in the United States and participates in the SFA Programs;
- Provides a 2-year program that leads to an associate degree or a 4-year program that leads to a baccalaureate degree or higher degree and would be eligible to participate in the SFA Programs but for the fact that they do not meet the Correspondence Course Limitation, and/or the Correspondence Student Limitation; or
- Is Western Governors University.

In addition, systems and consortia of these institutions were eligible to apply to participate in the program.

Applying to Participate

Each applicant institution was required to submit an application to the Department that included

- descriptions of its consultation with its accrediting agency with regard to quality assurances of its distance education program,
- proposed waivers of statutory and regulatory requirements and the reason the waivers are being sought,
- a description of the programs and students to whom the programs will be offered
- an assurance of full cooperation in evaluations of the demonstration program, and
- any other information the Department may require

Selection of Participants

The Department may select up to 15 participants for the first year. The Department may add up to 35 participants for the third year, if the Department believes expansion is warranted based upon the evaluations conducted in accordance with specific criteria in the law (see below).

When selecting participants, the Department must take into account:

- the number and quality of applications received
- the Department's capacity to monitor each school's participation, and
- each school's financial responsibility, administrative capability, and the program(s) being offered through distance education, and
- the diversity of the schools selected with respect to size, mission, and geographic distribution.

Evaluation of the Demonstration Program

The Department must evaluate each demonstration program on an annual basis. This evaluation must address

- the extent to which a participant has met the goals set forth in its application, including the measures of program quality assurance,

- the number and types of student participation, including the progress of students toward certificates or degrees, and the extent to which participation in the programs increased,
- issues related to student financial assistance for distance education,
- effective technologies for delivering distance education course offerings, and
- impediments caused by program requirements not waived.

In addition, the Department must review current policies and identify those that present impediments to the development and use of distance education and to other nontraditional methods of expanding access to higher education.

The Department must report to Congress within 18 months of the demonstration program's initiation with respect to the evaluations of the programs and any proposed statutory changes designed to enhance the use of distance education. In addition, the Department must provide additional annual reports to Congress regarding the demonstration programs.

Oversight

The Department must carry out, on a continuing basis, various oversight activities, including assuring participants' compliance with applicable statutory and regulatory requirements, providing technical assistance, monitoring student participation, and consulting with accrediting agencies and State regulatory authorities.

Notification to the Public and Congress

The Department must make available to the public and the Congress a list of participants, the specific requirements being waived for each participant, and a description of the distance education courses being offered by each participating institution.

"DEAR COLLEAGUE" LETTER GEN-98-10

"Dear Colleague" letter GEN-98-10, published in May 1998, provided information regarding the applicability of the SFA Program requirements to distance education programs. This guidance remains applicable to distance education programs that are offered at schools that do not participate in the Demonstration Program. Although the "Dear Colleague" letter provided information on many areas other than institutional eligibility and participation, all the guidance of the "Dear Colleague" is repeated here so that a school may review it in its entirety.

Definitions

What is a correspondence course?

A correspondence course is a home study course provided by a school to students who are not physically attending classes at the school. The school provides instructional materials, including examinations, to the students. When students complete a portion of the instructional materials, the students take the examinations that relate to that portion of the materials and return the examinations to the school for grading.

A home study course that is delivered in whole or in part through video cassettes or video discs is a correspondence course unless the school also delivers comparable instruction to students physically attending classes at the school during the same award year.

A telecommunications course (see below) is a correspondence course for purposes of SFA Program eligibility, if the sum of telecommunications and other correspondence courses offered by that school equals or exceeds 50 percent of the total courses offered at that school.

If a course is part correspondence and part residential training, the course is considered to be a correspondence course.

What is a telecommunications course?

A telecommunications course is a course offered principally through the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, satellite, audio conferencing, computer conferencing, video cassettes or discs.

The term “telecommunications” does not include a course that is delivered using video cassettes or disc recordings unless the school also delivers comparable instruction offered on the cassettes or discs to students physically attending classes at the school during the same award year. If the course offered in the manner described above does not qualify as a telecommunications course, it is a correspondence course.

What is an educational program?

An educational program is a legally authorized postsecondary program of organized instruction or study that leads to an academic, professional, or vocational degree or certificate, or other recognized educational credential. However, a school is not considered to be providing an educational program if the school does not provide instruction itself (including a course of independent study), but merely gives credit for one or more of the following: instruction provided by other schools or schools; examinations provided by agencies or organizations; or other accomplishments such as life experience.

Correspondence Course

Sec. 484(l); 34 CFR 600.2

Telecommunications Course

Sec. 484(l); 34 CFR 600.2

Educational Program

34 CFR 600.2

Institutional Eligibility

Sec. 481(a)(3)(A) and (B); 34 CFR 600.7

Institutional Eligibility

What is the effect of the offering of correspondence courses on institutional eligibility?

In general, a school does not qualify as eligible to participate in the SFA Programs if, for the latest complete award year,

- more than 50 percent of the school's courses were correspondence courses, or
- 50 percent or more of the school's regular enrolled students were enrolled in correspondence courses.

For purposes of this provision a telecommunications course is considered to be a correspondence course if the sum of telecommunications and correspondence courses the school provided during its latest complete award year equaled or exceeded 50 percent of the total number of courses it provided during that year.

These restrictions do not apply to a school that qualifies as a technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left high school and who are available for study in preparation for entering the labor market under section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act;

Calculating the number of correspondence courses.

- A correspondence course may be a complete educational program offered by correspondence, or one course provided by correspondence in an on-campus (residential) educational program;
- A course must be considered as being offered once during an award year regardless of the number of times it is offered during that year; and
- A course that is offered both on campus and by correspondence must be considered two courses for the purpose of determining the total number of courses the school provided during an award year.

Student Eligibility

Are there any limits on a student's eligibility for SFA Program funds for attendance in a correspondence course?

A student is not eligible to receive SFA Program funds for a correspondence course unless the course is part of a program leading to an associate, bachelor's, graduate, or professional degree. This means no student enrolled in certificate programs or other short term programs offered through correspondence is eligible to receive SFA Program funds.

A student enrolled in a telecommunications course is considered enrolled in a correspondence course unless the total number of

telecommunication and correspondence courses the school provides is fewer than 50 percent of the courses the school provides during an award year, and the student is enrolled in a program that leads to an associate, bachelor's, graduate, or professional degree. (In making this determination, the school must use its latest complete award year, and must calculate the number of courses as described above.)

In order to be eligible for SFA Program funds, a student enrolled solely in a program of study by correspondence must be carrying a work load of at least 12 hours of work per week, or must be earning at least 6 credit hours per semester, trimester, or quarter. A student enrolled solely in correspondence study cannot be considered more than a half-time student.

Cost of Attendance

What costs can be included in a student's cost of attendance?

For a student engaged in a program of study by correspondence, generally the only costs that can be included in the student's cost of attendance are tuition and fees and, if required, books and supplies. Travel and room and board costs can only be included if they are incurred specifically in fulfilling a required period of residential training.

Generally, a student who is studying via telecommunications does not have any restrictions placed on his or her cost of attendance unless the financial aid officer determines (using his or her professional judgement) that telecommunications instruction results in a substantially reduced cost of attendance.

The cost of equipment can be included in the cost of attendance of a student studying by correspondence or telecommunications if such equipment is required of all students in the same program.

Federal Pell Grant Program and Federal Supplemental Educational Opportunity Grant (FSEOG) Program Disbursements

Are there any special disbursement rules that apply to students in correspondence courses?

Generally, Federal Pell Grant Program and FSEOG Program disbursements can be made up to 10 days before the first day of classes for a payment period. However, there are special rules for students enrolled in correspondence study programs.

FSEOG Program

A correspondence student must submit his or her first completed lesson before receiving an FSEOG payment.

Pell Grant Program

For a non-term-based correspondence portion of a program of study the school must make—

- the first payment to a student for an academic year after the student submits 25 percent of the lessons, or otherwise

Cost of Attendance

Sec. 472(5) and 472

FSEOG Program Disbursements

34 CFR 676.16(f)

Pell Grant Program Disbursements

34 CFR 690.66

completes 25 percent of the work scheduled for the program or the academic year, whichever occurs last; and

- the second payment after the student submits 75 percent of the lessons, or otherwise completes 75 percent of the work scheduled for the program or the academic year, whichever occurs last.

For a term-based correspondence portion of a program of study the school must make the payment to a student for a payment period after the student completes 50% of the lessons, or otherwise completes 50% of the work scheduled for the term, whichever occurs last.

Miscellaneous Questions and Answers

1. Q. How can you determine if a course is a telecommunications course or a correspondence course when the course is delivered using a video cassette or disc recording?

A. The course would be considered a telecommunications course if the school also delivers instruction, comparable to that offered on the cassette or disc, to students physically attending classes at the school during the same award year.

If the course offered on the cassette or disc is not offered to students physically attending classes at the school during the same award year, it is considered a correspondence course.

2. Q. Is a student enrolled in a correspondence or telecommunications course eligible to receive SFA Program funds for that course?

A. For correspondence students

If the student is enrolled in a program leading to an associate, bachelor's, or graduate or professional degree, the student is eligible to receive SFA Program funds. If the student is enrolled in a postsecondary vocational program leading to a certificate, diploma, or similar type of credential, the student is not eligible to receive SFA Program funds.

For telecommunications students

There is no special limit on the eligibility of telecommunication students to receive SFA Program funds as long as the telecommunication course is considered a telecommunication course and not a correspondence course. However, if the telecommunications course is considered a correspondence course (because the total of telecommunication and correspondence courses equals or exceeds 50 percent of the school's courses) the above correspondence limitation applies.

3. Q. May a school choose not to award SFA Program assistance to otherwise eligible students who are enrolled in distance education courses or programs?

A. No, a school may not make a blanket determination that it will refuse to provide SFA Program assistance to students enrolled in distance education programs or courses. However, a school may refuse to certify an FFEL application or originate a Direct Loan (or may reduce the amount of the FFEL or Direct Loan) for a student if the decision is made on a case-by-case basis, and the reason (not merely because the student is a distance education student) is provided to the student in writing and documented in the student's file.