Payment to the Borrower

CHAPTER 6

The Department (in Direct Loans) or a lender (in FFEL) provides loan funds to the school for payment to the student or parent borrower. The school is responsible for ensuring that the student is still enrolled at least half-time and otherwise eligible at the time of payment. A school may credit loan proceeds to the student's account, pay the student or parent directly, or combine these methods. In 1996, cash management regulations set specific time frames for transfer of funds to the school and payment to the borrower—be sure to review Chapter 5, Volume 2 of this Handbook for a discussion of those disbursement requirements for all SFA programs.

THE DISBURSEMENT PROCESS

Since student aid payments are usually made through the school, the first step in the disbursement process is the transfer of funds to the school. In Direct Loans, a school receives loan funds from the Loan Origination Center, or by means of a direct drawdown from the Department's payment system. In the FFEL program, the lender transfers loan funds to the school on the dates specified by the school.

At one time in the loan programs, it was common for a bank to send individual checks to the school for each loan that was being disbursed, but this practice is now rare. The Direct Loan Origination Center and most FFEL lenders use electronic funds transfer (EFT) or a master check to send a single disbursement to the school for multiple borrowers. (In the Direct Loan Program, EFT has always been used.) In this case, the school acts as trustee for the lender, and the funds must be deposited in an account meeting the requirements of 34 CFR 668.163. For an EFT or a master check, the lender must provide a list of the names, Social Security Numbers, and loan amounts of the borrowers whose payments are considered a part of those funds.

Note that the law requires the borrower's authorization if the lender will use EFT or master check to transfer loan funds to the school. Since the Master Promissory Note (MPN) and the PLUS Loan application include this authorization, a school usually doesn't have to obtain the borrower's authorization separately.

A disclosure statement must be provided to the borrower either at or prior to the first disbursement. In the FFEL Program, the disclosure statement is provided by the lender or guarantor. In the Direct Loan Program, the school may choose to send disclosure statements or let the Loan Origination Center (LOC) send them. The

A Note on Terminology ...
Traditionally, the FFEL regulations have referred to the lender's "disbursement" of funds to the school, and the school's "delivery of the loan proceeds" to the student. More recently, the Cash Management regulations have defined the disbursement of a loan as the payment to the borrower.
In this chapter, we will use "disbursement" in the sense of the Cash Management regulations, that is, payment to the borrower.

Paying Loan Funds to the Borrower
34 CFR 668.164, General Provisions
34 CFR 682.604, FFEL
34 CFR 685.303, Direct Loans

Student starts later in the payment period

If a student delays attending school but begins attendance within the first 30 days of enrollment, the school may consider the student to have maintained eligibility for the loan from the first day of the enrollment period.

disclosure will include information that is specific to the borrower's loan: the type of loan, anticipated disbursement amount(s), anticipated disbursement date(s), and instructions on how to cancel the loan(s). For any subsequent loans provided under an existing MPN, borrowers also receive a "Plain Language Disclosure (PLD)" developed by the Department.

Checking eligibility at the time of disbursement

You've already certified that the student is eligible when you sent the loan information to the lender (see Chapter 4, "Starting the Loan Process"). However, you must also ensure that the student has maintained continuous eligibility before you disburse the loan.

The most common change that would make a student ineligible for a disbursement is if the student has dropped below half time, so it is important that your office have a system to check the student's enrollment status at the time of disbursement.

If the student has dropped below half-time temporarily, the school or lender may still make a first disbursement (and subsequent disbursements) after the student resumes at least half-time enrollment. However, you must make sure that the student continues to qualify for the entire amount of the loan—the change in enrollment may have resulted in a significantly lower cost of attendance. The school must document this review in the student's file.

Also remember that your school cannot retain the loan funds indefinitely—check "Time Frames to Disburse Loan Funds" later in this chapter.

When you report the student's change in enrollment status but expect the student to resume enrollment within a time period that is less than a payment period in length, you must specifically request that the lender make the second or subsequent disbursements. Otherwise, the lender is required by law to cancel the second disbursement. (See 34 CFR 682.207(b))

If the student has transferred from another school, you must check the National Student Loan Data System to confirm that the student is not in default and is still within the annual and aggregate loan maximums. (See Chapter 4 of this volume, for more information on using the NSLDS to confirm the outstanding loan amounts for transfer students.)

Notification of loan disbursement

The cash management regulations state that schools must notify students not only of the amount of SFA funds the students can expect to receive but also the amount that **parents** can expect to receive. The notice must delineate which loan funds are subsidized and which are unsubsidized and explain how and when students' and parents' expected SFA funds will be disbursed.

When crediting students' accounts with SFA loan funds, schools must notify students or parents (for a PLUS) electronically or in writing of the date and amount of the disbursement. Schools must send the notice **no earlier than 30 days before and no later than 30 days after** crediting the student's account. In the case of electronic notification, the school must require the recipient to confirm receipt and must maintain a copy of that confirmation. The notice must also explain the borrower's right to cancel all or a portion of the disbursement and the procedures for doing so (unless the loan was an FFEL loan paid through a check requiring the endorsement of the borrower).

With the first disbursement of the loan, the school, the lender, or the Direct Loan Origination Center must provide the borrower with a copy of the completed promissory note and repayment information. (See Volume 2 of the *SFA Handbook* for more information on required authorizations and notifications in the SFA Programs.)

Date of disbursement defined

The Cash Management regulations define the disbursement date as the date that the school credits the student's account or pays a student or parent directly with SFA funds (or with institutional funds as an advance on expected SFA funds). If the school advances its own funds for expected SFA funds prior to 10 days before classes begin, the disbursement is considered to have been made on the 10th day before classes began. (The same principle applies to funds the school might advance to a first-time first-year borrower before the 30th day of the payment period—the disbursment is considered to have been made on the 30th day of the payment period.)
See 34 CFR 668.164(a)

CREDIT TO THE STUDENT'S ACCOUNT AND CREDIT BALANCES

Most schools use the Stafford or PLUS loan funds to satisfy the charges on the student's account not paid by other aid. Stafford and PLUS funds may be credited towards tuition and fees, and room and board (if provided by the school).

If the student or parent authorizes it, the school may also use the SFA funds to pay other school charges for educationally related activities in the current year, and for minor prior award year charges. Minor charges are defined as charges less than $100, or charges that will not prevent the student from paying educational costs for the current award year or for the loan period.

If the payment of the Stafford or PLUS loan satisfies the remaining school charges on the student's account, any credit balance must be paid directly to the student for living expenses. In the case of a PLUS loan, the credit balance must be paid to the parent unless the parent has authorized the school to pay the balance to the student.

There are four methods that a school may use to pay the credit balance to the student or parent borrower:

- issuing a check or other instrument payable to and requiring the endorsement or certification of the student or parent (by releasing or mailing it to the borrower or by notifying the borrower that the check is available for immediate pickup);

- initiating an electronic funds transfer (EFT) to a bank account designated by the student or parent;

Credit to account & credit balances

See 34 CFR 668.164(c) - (e)

Disclosure Statement

The disclosure statement should not be confused with the notification of a disbursement that the school must send to the student. An FFEL lender must give a borrower a copy of an initial disclosure statement prior to, or at the time of, the first loan disbursement. In the Direct Loan Program, a school may elect to provide this disclosure to the student, or, if the school prefers, the statement will be provided to the student by the Loan Origination Center. In addition to general information about the student's rights, this disclosure will include some information that is specific to the student's loan, such as:

- the principal amount of the loan and the actual interest rate;
- the amount of any charges, including the origination fee if applicable, and the insurance premium, to be collected by the lender before or at the time of each loan disbursement;
- when repayment is required and when the borrower is required to pay the interest that accrues on the loan;
- the name and address of the lender and the address to which communications and payments should be sent;
- the minimum annual payment required, and minimum and maximum repayment periods; or
- an estimate of the monthly payment due the lender, based on the borrower's cumulative outstanding debt (including the loan applied for).

The information on the disclosure statement must be the most up-to-date information concerning the loan and must reflect any changes in laws or federal regulations that may have occurred since the promissory note was signed. If the student has questions about the statement, he or she should contact the lender immediately. If the student wishes to cancel the loan, he or she should contact the school immediately. In either case, the student should **not** endorse a loan check or an EFT form authorizing transfer of loan proceeds to his or her account.

- paying the borrower in cash, provided that the school obtains a signed receipt from the student or parent; and
- releasing a check from an FFEL Program lender to the student or parent.

A school must pay a credit balance directly to a student or parent as soon as possible, but no later than 14 days after the first day of class of a payment period if the balance was created on the first day of class or before classes began. If the credit balance was created *after* the first day of class, the school must pay the balance no later than 14 days after the balance was created. (This 14-day requirement is now a standard for all SFA programs.)

Payment of the credit balance may be delayed or "rationed" **only** if the student or parent (for a PLUS loan) authorizes it in writing. (This is a general SFA program requirement — see Volume 2, Chapter 5 for notification, cancellation, and additional conditions for holding credit balances.) In any event, you must pay any remaining balance on loan funds by the end of the loan period for which the funds were awarded.

LATE DISBURSEMENTS

The late disbursement rules apply to all of the SFA programs, but we will review them here in the context of the Stafford and PLUS loan programs.

If the student withdraws or is no longer enrolled **at least half-time** when you're ready to disburse the loan funds, you may still use the Stafford or PLUS funds to pay the borrower, if all of the following are true:

- The student became ineligible solely because of the change in enrollment status,
- Before the date the student became ineligible, the school received an *Institutional Student Information Record* (ISIR)or *Student Aid Report* (SAR) with an official EFC,
- The school must have created a complete, electronic loan origination record or certified the FFEL application while the student was enrolled and eligible, and
- for a first-time first-year undergraduate student subject to the 30-day delayed disbursement rule, the student must have completed the first 30 days of the loan period for which the loan was made.

To receive a late second or subsequent disbursement of a Stafford Loan, the student must have graduated or successfully completed the period of enrollment for which the loan was intended.

A school must make the late disbursement no later than 90 days after the date that the borrower became ineligible for the loan. The loan disbursement is based on the educational costs the student incurred while enrolled **at least half-time** and eligible for the loan.

If an FFEL lender provides the Stafford or PLUS funds after the end of the period of enrollment for which the loan was made, a late disbursement can only be made if it is the first disbursement of the loan, and comes with a notice from the lender stating that it is a late first disbursement. If the student is not eligible for a late disbursement, the school has 30 days to return the Stafford or PLUS funds to the lender.

In some cases, the late disbursement rules overlap with the requirements for the Return of Title IV Funds. If the student has completely withdrawn from school within the first 60% of the payment period and the rules for Return of Title IV Funds apply, you must first use the late disbursement procedures to determine the SFA funds that the student *could have received*. (See Volume 2, Chapter 6 for information on how to calculate the Return of Title IV Funds.) If the student drops below half-time or withdraws after the 60% point in the payment period, then *only* the late disbursement procedures apply.

Late Disbursements
See 34 CFR 668.164(g) for Cash Management rules;
34 CFR 682.604(e) for FFEL

Return of Undisbursed FFEL Funds
See 34 CFR 668.167(b)

TIME FRAMES TO DISBURSE LOAN FUNDS OR RETURN THEM

The Cash Management regulations (34 CFR 668.167) establish specific time frames for schools to disburse FFEL Program funds or return the funds to the lender. In the Direct Loan Program, the school takes on a greater role with respect to the management of loan funds—for a detailed discussion of Direct Loan procedures, please see the *Direct Loan School Guide*.

For purposes of the cash management regulations and this discussion, returning funds "promptly" means that a school may not delay its normal process for returning FFEL Program funds to lenders. Also for these purposes, the requirement that a school "return funds no later than" a certain number of days means that a school must mail a check or initiate an EFT of FFEL funds to the lender by the close of business on the last day of that period.

Time frames for disbursing FFEL funds received from lender

When your school receives FFEL Program funds from the lender by *EFT or master check*, you usually must credit the student's account or issue a direct payment to the eligible student (or parent borrower) within three (3) business days. If the FFEL lender provided the loan funds through a check requiring the endorsement of the student (or parent), the school must disburse those funds to eligible students (or, for PLUS Loan funds, to parents of eligible students) no later than 30 calendar days after your school receives the funds.

In some cases, your school may receive the loan funds at a point when the student is temporarily not eligible for payment—for instance, if the student needs to complete the clock hours or credit hours in the previous payment period (for an academic program without terms). In cases where the student is temporarily ineligible during the normal disbursement period, you have an additional 10 business days to disburse the funds if you expect the student to become eligible for payment during that time. In effect, this means that the school can wait 13 days after receipt of the EFT or master check (40 days for a check requiring endorsement) to pay a student who is expected to regain eligibility during this 10-day window.

Verification extension

If you chose to certify or originate a Stafford Loan for a student who was being verified, the verification regulations allow you to hold the loan proceeds for 45 days. If the applicant does not complete the verification process within the 45 day period, you must return the loan funds to the lender.

If the student's eligibility was reduced as a result of verification, you may pay the full disbursement if the excess amount can be eliminated by reducing subsequent disbursements for the applicable loan period (you must advise the lender to reduce the subsequent disbursements). If the excess funds cannot be eliminated in subsequent disbursements for the applicable loan period, the excess funds must be returned to the lender. (34 CFR 668.58)

Time frame for returning undisbursed FFEL loan funds

For FFEL Program funds that a school does not disburse by the end of the initial or conditional period, as applicable, the school must return those funds to the lender promptly but no later than 10 business days from the last day allowed for disbursement (above). However, if a student becomes eligible to receive FFEL program funds during the return period, the school may disburse those funds provided that the disbursement is made on or before the last day of the return period.

Proration of loan fees for returned FFEL funds

If a school returns an FFEL disbursement or any portion of an FFEL disbursement to a lender, the origination fee and insurance premium are reduced in proportion to the amount returned. If a student returns an FFEL disbursement or any portion of an FFEL disbursement to the lender, the origination fee and insurance premium are reduced in proportion to the amount returned only if the lender receives the returned amount within 120 days after disbursement.

For information on how returning Direct Loans affects loan fees and accrued interest on loans, see the *Direct Loan School Guide*.

Previous time-frame for payment to the borrower

If a school received FFEL program funds from a lender via EFT or master check after July 1, 1997, but before July 1, 1999, the school was required to disburse those funds to the eligible borrower no later than 10 business days after the school received the funds.