

# Section 4

## Refunds and Repayments

This section explains the refund and repayment requirements in effect since the 1995-96 award year and provides refund and repayment examples. The requirements discussed here are found in 34 CFR 668.22. **These refund and repayment rules apply to all participating SFA schools.**

The SFA refund and repayment requirements apply when a student receives SFA 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,<sup>1</sup>
- ◇ withdraws from some classes, but continues to be enrolled in other classes, or
- ◇ does not receive SFA funds for the period in question. (Students whose parents received a PLUS Loan are considered to have received SFA 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. Final regulations published November 29, 1996 changed the definition of an SFA disbursement (see Section 3). Under the new definition, an SFA disbursement occurs even when a school credits a student’s account with institutional funds labeled as SFA Program funds. If a student ceases attendance after the account is credited but before the SFA funds are actually drawn down, the student is an SFA

**When requirements apply**

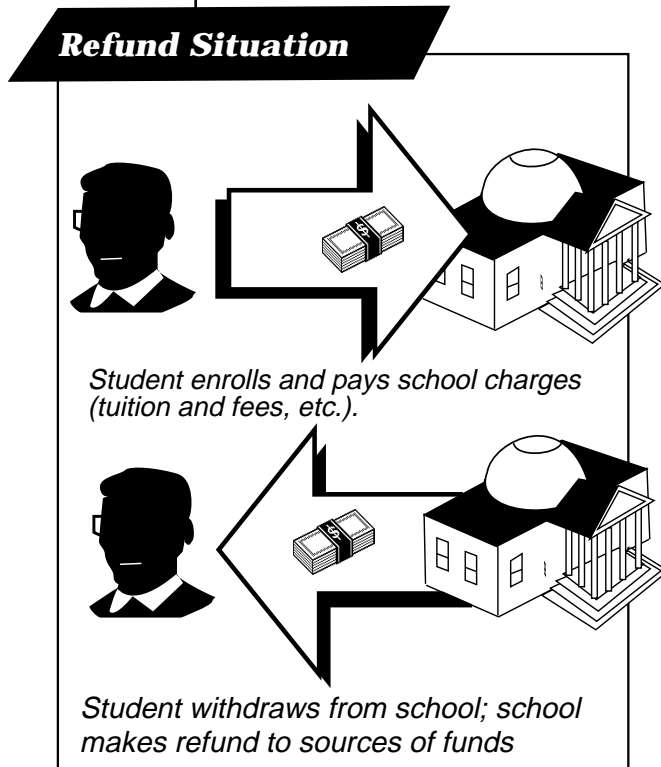
**Partial withdrawals not affected**

**Students who don’t receive SFA not affected**



<sup>1</sup>See 34 CFR 668.21, 685.303, and 682.604.

recipient, and the SFA refund requirements apply. The school must draw down the SFA 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 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 charges). But the terms "refunds" and "repayments," as discussed in this section, have specific meanings.

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 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 charges (including financial aid and/or cash paid) and the amount the school may retain under the appropriate refund policy.

$\begin{array}{r} \text{Total Amount Paid} \\ - \text{Amount Retained} \\ \hline = \text{REFUND AMOUNT} \\ \text{(amount unearned)} \end{array}$
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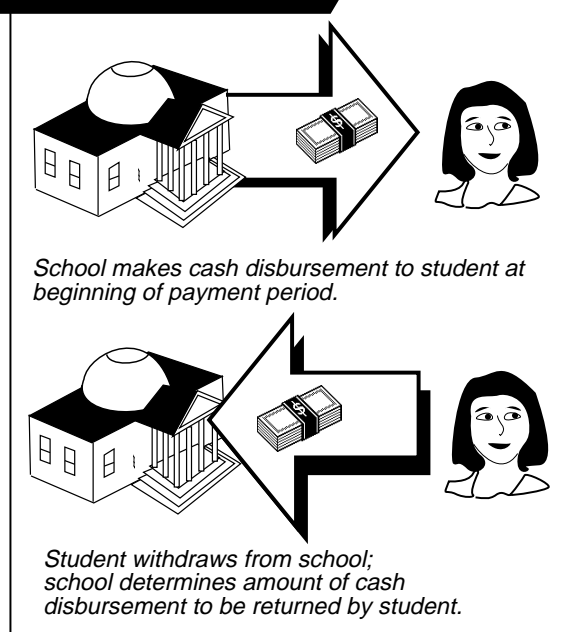
**\$668.22**

$\begin{array}{r} \text{Aid Disbursed as Cash} \\ - \text{Living Expenses Incurred} \\ \hline = \text{REPAYMENT AMOUNT} \end{array}$
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**\$668.22**

A "repayment" is the *unearned* amount of a direct disbursement to a student that the student (who received SFA 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 charges 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

## Repayment Situation



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.

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,

***FWS never included; FFEL & Direct Loan excluded from repayments***

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 knowing which program funds were used to credit the student's account and which were paid to the student for living costs.

## REQUIRED POLICIES AND PROCEDURES

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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.

***Written policies required; students must be informed***

**Examples & required procedures**

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 publish costs**

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**

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**Three possible refund policies**

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 section.)

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**

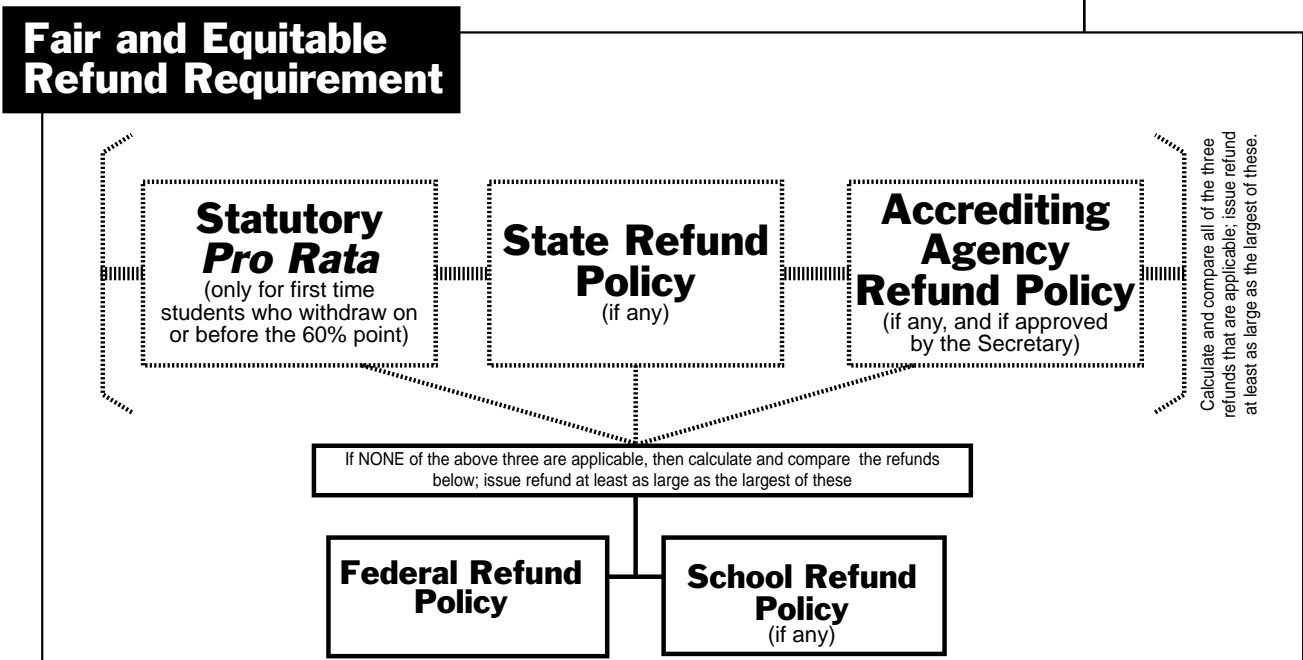
For those SFA students who are **first-time students** and who withdraw on or before the 60% point in time of the enrollment period for which they were charged, the school must calculate a statutory pro rata refund and

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 3-94.) 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.

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.

**Continuing student**

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



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

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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 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.

### **Voluntary pro rata**

**State guidelines.** SMA's state guidelines allow it to retain institutional charges 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 charges. (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 is currently in litigation. For details on this topic, see page 3-90.)

**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 charges 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 3-96). 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 charges under the statutory pro rata refund calculation and retains 30%.

### **Compare AFTER calculating the refund**

**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 charges, (2) total amount paid to those charges, and (3) Bob's total unpaid charges.

(1) Bob's institutional charges 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 charges. Bob also made a \$200 cash payment. A total of **\$1,350** was paid toward institutional charges ( $\$850 + \$300 + \$200 = \$1,350$ ).

(3) Unpaid charges are calculated by subtracting the total amount paid to institutional charges from the total institutional charges. 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 3-90.)

**The state refund calculation.** The state refund policy allows SMA to keep 30% of its institutional charges ( $\$1,500 \times .30 = \$450$ ). 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 charges (\$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 charges ( $\$1,500 \times .70 = \$1,050$ ). 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 3-100.)

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

**Total amount paid**

$$\begin{array}{r} 850 \\ + 300 \\ + 200 \\ \hline = 1350 \end{array}$$

**Unpaid charges**

$$\begin{array}{r} 1500 \\ - 1350 \\ \hline = 150 \end{array}$$

**State refund**

$$\begin{array}{r} 1500 \\ \times .30 \\ \hline = 450 \\ - 150 \\ \hline = 300 \\ \\ 1350 \\ - 300 \\ \hline = 1050 \end{array}$$

**Pro rata**

$$\begin{array}{r} 1500 \\ \times .70 \\ \hline = 1050 \\ - 150 \\ \hline = 900 \end{array}$$

## WITHDRAWAL DATE

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### CLARIFICATION

A key component needed in order to determine if a refund of institutional charges 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 an institution 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 institution without notifying the institution (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.

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 section). 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,<sup>2</sup> 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.<sup>3</sup>

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<sup>2</sup>See the discussion on leave of absence on page 3-88.

<sup>3</sup>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.

***Timely  
payment of  
refunds and  
repayments***

***Schools  
must  
document  
student  
attendance***

***Correspondence***

## 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 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.

### **DETERMINING INSTITUTIONAL AND NONINSTITUTIONAL CHARGES**

To calculate either a refund or a repayment, the school must first determine the student’s costs and separate them into two different types: institutional charges (such as tuition) used to calculate any refund due; and noninstitutional charges (such as off-campus rent, living expenses, or transportation costs) used to calculate any repayment due.

In general, an **institutional charge** is a charge for educational purposes by a school for which the school requires direct payment. There is some confusion over the relationship between “allowable charges” and institutional charges. Allowable charges are not always institutional charges (see Section 3 for a discussion of allowable charges) and a charge is not automatically an institutional charge just because a school has credited a student’s account with SFA funds to cover the charge. For example, a student may give a school permission to credit her account for the cost of concert tickets. This would make the cost of the concert tickets an allowable charge. However, because the ticket charge is not a charge for educational purposes that is required to be paid to the school, if the student withdraws, the cost of the concert tickets would not be an institutional charge. The cost of the tickets would be a noninstitutional charge and would be included in any repayment calculation for the student.

Tuition charges are always institutional charges, but everything else (fees, room and board charges, books and supply costs, etc.) is subject to Departmental guidance and state or accrediting agency refund rules. Usually, if the student purchases books or supplies from the school, it’s an institutional cost. However, the Department has determined that if the student has a *real and reasonable* opportunity to obtain the items (such as books) elsewhere and only *chooses* to buy them at the school as a matter of convenience, the cost is a noninstitutional charge.

The pro rata refund and the Federal Refund Policy regulations are very specific in defining institutional and noninstitutional charges, and even though these definitions aren’t requirements for nonpro rata refund calculations, schools can use them as a guide when differentiating

**Allowable  
charges &  
institutional  
charges**

**Pro rata &  
Federal  
Refund Policy  
rules for  
equipment &  
other charges**

between institutional and noninstitutional charges, provided they are not in conflict with applicable state or accrediting agency rules.

Under pro rata and Federal Refund Policy rules, if the cost is listed in the student's enrollment agreement as a separate and required charge, or if the school refers the student to a school vendor or affiliated entity to purchase the required item, then it is considered an institutional cost. (Room charges that are collected by the school but that are "passed-through" to an unaffiliated entity are not considered institutional costs so long as that entity is not controlled, affiliated with, or otherwise related to the school's owners or management.) Lastly, pro rata and Federal Refund Policy rules don't count group health insurance fees as an institutional charge, so long as the insurance is required for all students and the purchased coverage remains in effect for the entire period for which the student was charged, despite a student's withdrawal. (Such a cost would be included as noninstitutional in the student's living allowance or miscellaneous expenses.)

### ***UNPAID CHARGES***

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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:

$\begin{array}{l} \text{Total Institutional Costs for the Enrollment Period} \\ - \text{Total Aid Paid to Institutional Costs} \\ \hline = \text{Student's Scheduled Cash Payment (SCP)} \\ - \text{Student's Cash Paid} \\ \hline = \text{UNPAID CHARGES} \end{array}$
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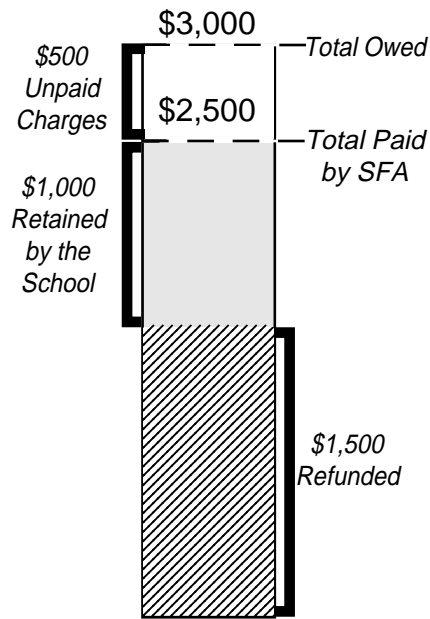
A school may choose to request any late SFA disbursements or permissible late disbursements of state student aid for which the student is still eligible and will receive in spite of having withdrawn. Note that if a school elects to receive a late disbursement, the late disbursement must be taken into 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 3-92.)

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 on the next page. (However, the applicability of this requirement to state calculations is currently under litigation; see below.)

### EXAMPLE — UNPAID CHARGES

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 ( $\$3,000 \times .50 = \$1,500$ ).

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 ( $\$2,500 \text{ paid} - \$1,000 \text{ retained} = \$1,500 \text{ refund}$ ).



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 funds (other than FWS) that were used to pay institutional charges. 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 charges.

**Primary responsibility rests with student**

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 3-94. (Note the 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.

#### ***LATE DISBURSEMENTS***

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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. The November 29, 1996 final regulations consolidated the requirements for late disbursements of SFA Program funds. (For more information on late disbursements, see Section 3.)

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 charges for the enrollment period total \$2,000, and at the time of withdrawal only \$1,500 had been paid, then institutional charges 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 charges. 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 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 charges must be counted as *already paid* toward institutional charges, thereby reducing the student's scheduled cash payment and unpaid charges. (For more on unpaid charges, see page 3-90.) 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 charges 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 state  
disbursements**

**Other late disbursements not considered**

**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***

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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 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 Section 3.)

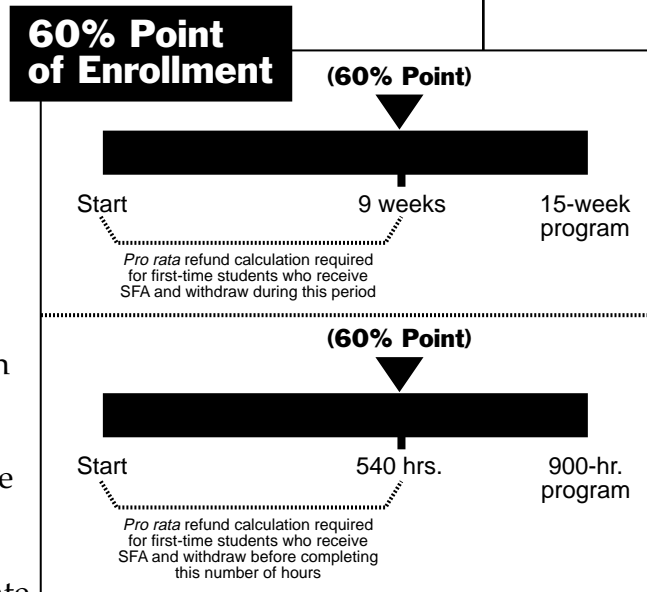
### ***PRO RATA REFUND CALCULATIONS***

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The 1992 Amendments' "fair and equitable" refund requirement (including pro rata) apply to all participating SFA schools. A statutory pro rata calculation is required if the student received SFA funds and *both* of the following conditions apply:



- ◇ **The student is a first-time student.** “First-time student” is defined in the regulations as any student who has not attended at least one class at your school, or who received a full refund (less any allowable administrative fees) for previous attendance at your school. Prior attendance at another postsecondary school does not preclude a student from being a first-time student at your school. A student remains a first-time student until he or she either ceases attendance after attending at least one class, or completes the period of enrollment for which he or she has been charged.
  
- ◇ **The student withdrew on or before the 60% point in time of the enrollment period for which he or she was charged.** For credit-hour programs, this is the point in calendar time when 60% of the enrollment period has elapsed. For clock-hour programs, it is the point when the student completes 60% of the hours scheduled for the enrollment period for which the student has been charged.



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.

Some different rules apply when calculating a pro rata refund. Some institutional charges can be excluded from the proration that results in the refund amount. Therefore, the amount of institutional charges 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 charges used to calculate a pro rata refund:

- ◇ A reasonable administrative fee, not to exceed \$100 or 5% of the total institutional charges, 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.

**Charging for  
excludable  
costs**

**CLARIFICATION**

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%.

<p><b>TO DETERMINE THE PORTION THAT REMAINS</b> Schools that use credit hours <b><u>WEEKS REMAINING</u></b> <b><u>TOTAL WEEKS IN PERIOD</u></b></p> <p>Schools that use clock hours* <b><u>HOURS REMAINING TO BE COMPLETED</u></b> <b><u>TOTAL HOURS IN PERIOD</u></b></p> <p>Correspondence course <b><u>LESSONS NOT SUBMITTED</u></b> <b><u>TOTAL LESSONS IN PERIOD</u></b></p> <p>*Excused absences count as hours completed</p>
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**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%.**

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 3-90.)

### **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**

***Unpaid charges treated differently***

***If unpaid charges exceed the refund***

**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 3-90 for more on unpaid charges.)

**Refund percentages mandated**

The Federal Refund Policy mandates the percentage of institutional charges that must be refunded as follows:

- ◇ withdrawal on the first day of class—**100% refund** of institutional charges (less the permitted administrative fee of the lesser of \$100 or 5% of institutional charges).
- ◇ 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 charges.
- ◇ 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 charges.
- ◇ 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 charges.

Schools should note that if a student withdraws before his or her first day of class, SFA 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.

**Equipment costs**

As with the pro rata refund policy, a school may *exclude* from the institutional charges used to calculate the Federal Refund Policy refund a reasonable administrative fee, not to exceed \$100 or 5% of the total institutional charges, 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 3-96 for more details.)

**Institutional charges**

The Federal Refund Policy also follows the same requirements as the pro rata refund policy in the following areas: (1) determination of institutional charges, (2) treatment of "passed-through" room charges, and (3) treatment of group health insurance fees. (See page 3-94 for more information.)

## REPAYMENT CALCULATIONS

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A different situation may occur—repayment—when a student received SFA 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 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 Verification Guide* for information on referring overpayment cases to the Department. For more information on the NSLDS, see Chapter 2.

**Living  
expenses  
incurred**

**Referring  
overpayments**

## 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 charges 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 funds were disbursed to the student to cover noninstitutional costs. For example, the only SFA 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
5. Other federal, state, private, or institutional sources of aid

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. 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. 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*

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#### CLARIFICATION

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.



## 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— <ul style="list-style-type: none"> <li>• last date of attendance</li> <li>• student notification</li> </ul>	60 days from the later of— <ul style="list-style-type: none"> <li>• last date of attendance</li> <li>• student notification</li> </ul>	30 days from the later of— <ul style="list-style-type: none"> <li>• last date of attendance</li> <li>• student notification</li> </ul>	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— <ul style="list-style-type: none"> <li>• date of determination by school that student ceased attending</li> <li>• end of term</li> <li>• end of period of enrollment for which the student has been charged</li> </ul>	30 days of earlier of the end of— <ul style="list-style-type: none"> <li>• the academic year</li> <li>• the program</li> <li>• the period of enrollment for which the student has been charged</li> </ul>
Never returned from approved leave of absence	30 days of earlier of— <ul style="list-style-type: none"> <li>• end of the LOA</li> <li>• student notification</li> </ul>	30 days of earlier of— <ul style="list-style-type: none"> <li>• end of the LOA</li> <li>• student notification</li> </ul>	30 days of earlier of— <ul style="list-style-type: none"> <li>• end of the LOA</li> <li>• student notification</li> </ul>	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