

Archived Information

Proposed Regulatory Language Committee II - Program Issues

Quick Fix: No

Origin: Fed Up #41

Issue: Leave of Absence (LOA) definition

Regulatory Cite: §668.22 (d)

Summary of Change: Simplify the LOA definition and allow multiple LOAs not to exceed a total of 180 days.

Change:

§ 668.22 Treatment of title IV funds when a student withdraws.

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(d) *Approved leave of absence.* (1) For purposes of this section (and, for a title IV, HEA program loan borrower, for purposes of terminating the student's in-school status), an institution does not have to treat a leave of absence as a withdrawal if it is an approved leave of absence. A leave of absence is an approved leave of absence if --

(i) The institution has a formal policy regarding leaves of absence;

(ii) The student follows the institution's policy in requesting the leave of absence;

(iii) The institution determines that there is a reasonable expectation that the student will return to the school;

(iv) The institution approves the student's request in accordance with the institution's policy;

(v) The leave of absence does not involve additional charges by the institution;

(vi) ~~It is the only leave of absence granted to the student in a 12-month period, except as provided for in paragraph (d) (2) of this section;~~ The number of days in the approved leave of absence, when added to the number of days in all other approved leaves of absence does not exceed 180 days in any 12-month period;

~~(vii) The leave of absence does not exceed 180 days in any 12-month period;~~

(viii) Upon the student's return from the leave of absence, the student is permitted to complete the coursework he or she began prior to the leave of absence; and

~~(ixviii)~~ If the student is a title IV, HEA program loan recipient, the institution explains to the student, prior to granting the leave of absence, the effects that the student's failure to return from a leave of absence may have on the student's loan repayment terms, including the exhaustion of some or all of the student's grace period.

~~(2) Notwithstanding paragraph (d)(1)(vi) of this section, provided that the total number of days of all leaves of absence does not exceed 180 days in any 12-month period, an institution may treat --~~

~~(i) One leave of absence subsequent to a leave of absence that is granted in accordance with (d)(1)(vi) of this section as an approved leave of absence if the subsequent leave of absence does not exceed 30 days and the institution determines that the subsequent leave of absence is necessary due to unforeseen circumstances; and~~

~~(ii) Subsequent leaves of absence as approved leaves of absence if the institution documents that the leaves of absence are granted for jury duty, military reasons, or circumstances covered under the Family and Medical Leave Act of 1993.~~

~~(32)~~ If a student does not resume attendance at the institution on or before the end of a leave of absence that meets the requirements of this section, the institution must treat the student as a withdrawal in accordance with the requirements of this section.

~~(43)~~ For purposes of this paragraph --

(i) The number of days in a leave of absence are is counted beginning with the first day of the student's initial leave of absence in a 12-month period.

(ii) A "12-month period" begins on the first day of the student's initial leave of absence.

(iii) An institution's leave of absence policy is a "formal policy" if the policy --

(A) Is in writing and publicized to students; and

(B) Requires students to provide a written, signed, and dated request that includes the reason for the request for a leave of absence prior to the leave of absence. However, if unforeseen circumstances prevent a student from providing a prior written request, the institution may grant the student's request for a leave of absence, if the institution documents its decision and collects the written request at a later date.

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**Proposed Regulatory Language
Committee II - Program Issues**

Quick Fix: No

Origin: Fed Up #82

Issue: GEAR UP

Regulatory Cite: § 694.10(e)

Summary of Change: Revise packaging requirements. Removes the requirement that an institution award student financial assistance in an established order for GEAR UP scholarship recipients. Retains the statutory requirement in 404E(c) that GEAR UP scholarships shall not be considered in awarding Title IV grant assistance.

Change:

§694.10 What are the requirements for awards under the program's scholarship component under section 404E of the HEA?

(a) *Amount of scholarship.* (1) Except as provided in paragraph (a)(2) of this section, the amount of a scholarship awarded under section 404E of the HEA must be at least the lesser of --

(i) 75 percent of the average cost of attendance, as determined under section 472 of the HEA, for in-State students in 4-year programs of instruction at public institutions of higher education in the State; or

(ii) The maximum Federal Pell Grant award funded for the award year in which the scholarship will be awarded.

(2) If a student who is awarded a GEAR UP scholarship attends an institution on a less than full-time basis during any award year, the State or Partnership awarding the GEAR UP scholarship may reduce the scholarship amount, but in no case shall the percentage reduction in the scholarship be greater than the percentage reduction in tuition and fees charged to that student.

(b) *Pell Grant recipient priority.* A State, or a Partnership that chooses to participate in the scholarship component under section 404E of the HEA in its GEAR UP project --

(1) Must award GEAR UP scholarships first to students who will receive, or are eligible to receive, a Federal Pell Grant during the award year in which the GEAR UP scholarship is being awarded and who are eligible for a GEAR UP scholarship under the eligibility requirements in section 404E(d) of the HEA; and

(2) May, if GEAR UP scholarship funds remain after awarding scholarships to students under paragraph (b)(1) of this section, award GEAR UP scholarships to other eligible students (who will not receive a Federal Pell Grant) after considering the need of those students for GEAR UP scholarships.

(c) *Cost of attendance.* A GEAR UP scholarship, in combination with other student financial assistance awarded under any title IV HEA program and any other grant or scholarship assistance, may not exceed the student's cost of attendance.

(d) *Continuation scholarships.* A State, or a Partnership that chooses to participate in the scholarship component in accordance with section 404E of the HEA in its GEAR UP project, must award continuation scholarships in successive award years to each student who received an initial scholarship and who continues to be eligible for a scholarship.

(e) *Other grant assistance.* A GEAR UP scholarship may not be considered in the determination of a student's eligibility for other grant assistance provided under Title IV of the HEA.

~~(c) *Order of Scholarships.* (1) *In general.* Notwithstanding 34 CFR 673.5, in awarding GEAR UP scholarships, a State or Partnership must ensure that, for each recipient of a scholarship under this part who is eligible for and receiving other postsecondary student financial assistance, a Federal Pell Grant, if applicable, be awarded first, any other public or private grants, scholarships, or tuition discounts be awarded second, a GEAR UP scholarship be awarded third, and then any other financial assistance, such as loans or work study, be awarded.~~

~~(2) *Exception.* Notwithstanding paragraph (c)(1) of this section, a State or Partnership is not required to ensure that a GEAR UP scholarship recipient's financial aid be awarded in the order set forth in paragraph (c)(1) only if—~~

~~(i) It determines and documents in writing that there are exceptional circumstances related to the GEAR UP student's aid that are unique to that GEAR UP student;~~

~~(ii) It documents and maintains in the GEAR UP student's file the modification that was made to the GEAR UP student's award package and the reason for the modification; and~~

~~(iii) It provides written notification to the GEAR UP student of the reason for and the specific modification that was made to the package.—(Authority: 20 U.S.C. 1070a-25)~~

**Proposed Regulatory Language
Committee II - Program Issues**

Quick Fix: No
Origin: Fed Up (not on 12/14/01 list)
Issue: ATB Testing Requirements
Regulatory Cite: §668.32 (e)

Summary of Change: Eliminate the requirement to limit the duration of a passing score on an Ability-To-Benefit test to 12 months before the student initially receives title IV funds.

Change:

§ 668.32 Student eligibility - general.

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(e) (1) Has a high school diploma or its recognized equivalent;
(2) Has obtained a passing score specified by the Secretary on an independently administered test in accordance with subpart J of this part;

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**Proposed Regulatory Language
Committee II - Program Issues**

Quick Fix: No.

Origin: Fed Up #35 and #36

Issue: Late Disbursements

Regulatory Cite: §668.164(g)

Summary of Change: The changes to this section would (1) clarify that an institution must make a post-withdrawal disbursement, if applicable, to a student who withdrew and was subject to the provisions of §668.22. (2) provide that an institution must offer a late disbursement to a student who completed the payment or loan period, as applicable, (3) allow the submission of a PLUS application to meet the initial requirement for eligibility for a late disbursement of a PLUS loan, and (4) allow, under exceptional circumstances for a late disbursement to be made after the normal 90 day period.

Changes: §668.164(g)

(g) Late disbursements -- (1) Ineligible students who may receive a late disbursement. (i) An institution may make a late disbursement under paragraph (g)(2) of this section, if the student became ineligible solely because --

(A) For purposes of the Direct Loan and FFEL programs, the student is no longer enrolled at the institution as at least a half-time student for the loan period; and

(B) For purposes of the Federal Pell Grant, FSEOG, and Federal Perkins Loan programs, the student is no longer enrolled at the institution for the award year.

(ii) Notwithstanding paragraph (g)(1)(i) of this section ~~---~~

(A) If a student ~~who~~ withdraws from an institution during a payment period or period of enrollment, the institution must make a post-withdrawal disbursement, if applicable, under the provisions of §668.22(a); ~~or can receive additional disbursements of title IV, HEA program funds in accordance with the requirements of § 668.22 only.~~

(B) If a student graduates or successfully completes the payment period or period of enrollment, the institution must, at the student's or parent's request, make the late disbursement for the amount the student or parent was eligible to receive while the student was enrolled at the institution.

(2) *Conditions for late disbursements.* An institution may disburse funds under a title IV, HEA program to an ineligible student and to the parent of an ineligible student as described in paragraph (g)(1) of this section if, before the date the student became ineligible --

(i)(A) The institution received a SAR from the student or an ISIR from the Secretary and the SAR or ISIR has an official expected family contribution calculated by the Secretary; ~~or;~~

(B) For a PLUS loan the student's parent submitted the loan application or otherwise requested the PLUS loan; and

(ii)(A) For a Direct Loan Program loan, the institution created the electronic origination record for that loan. An institution may not make a late second or subsequent disbursement of a Direct Subsidized or Direct Unsubsidized loan unless the student has graduated or successfully completed the period of enrollment for which the loan was intended;

(B) For an FFEL Program loan, the institution certified an application for that loan. An institution may not make a late second or subsequent disbursement of a Stafford loan unless the student has graduated or successfully completed the period of enrollment for which the loan was intended;

(C) For a Direct Loan or FFEL Program loan, the student completed the first 30 days of his or her program of study if the student was a first-year, first-time borrower as described in 34 CFR 682.604(c)(5) or 685.303(b)(4);

(D) For a Federal Pell Grant Program award, the institution received a valid SAR from the student or a valid ISIR from the Secretary; and

(E) For a Federal Perkins Loan Program loan or an FSEOG Program award, the student was awarded a loan or grant.

(3) *Making a late disbursement.* (i) If a student or a parent borrower qualifies for a late disbursement under paragraphs (g) (12) and (23) of this section, the institution --

~~(A)~~ Except in the cases described in paragraph (g)(1)(B), Mmay make that late disbursement of title IV, HEA program funds only if the funds are used to pay for educational costs that the institution determines the student incurred for the period in which the student was enrolled and eligible; and

(B) The institution must generally make the late disbursement no later than 90 days after the date it determines the student withdrew as provided under §668.22 or 90 days after the student otherwise becomes ineligible under this paragraph.

(ii) On an exception basis, the institution may make the late disbursement after the end of the applicable 90 day period provided in paragraph (g)(4)(i) of this section, if the reason the late disbursement was not made during that period was not the fault of the student or parent, and the institution documents the reason why the late disbursement was not made during the applicable initial 90 day period. ~~(ii) Must make the late disbursement no later than 90 days after the date that student becomes ineligible under paragraph (g)(1) of this section.~~

Proposed Regulatory Language

Committee II - Program Issues

Quick Fix: No

Origin: Fed Up #39

Issue: Limit the definition of "an institution required to take attendance".

Regulatory Cite: 668.22 (b) (3)

Summary of Change:

Clarify that for the Return of Title IV Aid purposes the only institutions that are "required to take attendance" are institutions that are required to do so by their certification or licensing board.

Change:

§ 668.22 Treatment of title IV funds when a student withdraws.

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

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(3)(i) An institution is required to take attendance if an outside entity (such as the institution's accrediting agency, or a state agency) has a requirement, as determined by the entity, that the institution take attendance for some or all of its students.

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