



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

Issue Paper 1: Cash Management
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Issue: Cash Management

Statutory cites: § 498(a) of the Higher Education Act of 1965, as amended (HEA)

Regulatory cites: 34 CFR 668.162, 668.164, 668.167, and 668.168

Summary of issues:

The cash management regulations establish the rules and procedures institutions must follow in requesting, maintaining, disbursing, and otherwise managing Title IV funds. Proposals under consideration would create more consumer-friendly policies to ensure students have access to the aid they are entitled to, to cover the cost of attendance.

Proposals:

Under § 668.162, Requesting funds:

Establish a 180-day timeframe within which institutions subject to heightened cash monitoring and receiving funds under a reimbursement payment method (HCM2) must submit their final HCM2 requests after losing eligibility. The 180-day timeframe is tied to the Department's late disbursement regulations in § 668.164. Currently, there is no timeframe for institutions to submit final claims and supporting documentation after losing eligibility. This leads to delays in submission and is likely to increase financial risk to students and taxpayers because of delays in students receiving loans not reflected in servicing records.

Under § 668.164, Disbursing funds:

1. **Require institutions to return remaining funds from Title IV recipients' meal plan accounts to students instead of "sweeping" them (§ 668.164(c)(1)(i)).** Students are often encouraged or required to purchase meal plans from institutions, and institutions can credit Title IV funds toward meal plan expenses. These plans often include the use of "flex" accounts that can be used like cash to cover expenses at campus grocery stores, food courts, and other meals if students have used their allotted meals for the week. At the end of a term, institutions can keep any remaining funds. This creates a financial penalty for students when institutions sweep unused meal plan dollars that include Title IV funds. Under this proposal, institutions would be required to return any remaining funds no later than 14 days after the

end of the payment period.

2. **Increase the amount of current year funds that may be credited against prior year charges** from \$200 to \$300 to account for inflation (**§ 668.164(c)(3)**). Currently, the Department limits the amount of current year funds that may be used for prior year charges to \$200. This provision permits the use of Title IV funds to cover minor allowable charges in the prior year that would otherwise go unpaid and could prevent students from reenrolling the following term. This amount was established in November 2007. As the prices of goods and services continue to rise, the \$200 limit provides less benefit than it did 15 years ago. Using the U.S. Bureau of Labor Statistics Consumer Price Index Inflation Calculator, the \$200 threshold established in November of 2007 would increase to approximately \$286, which we have rounded up to \$300 for simplicity. Going forward, we would adjust this amount, if appropriate, on a 5-year basis by publishing a notice in the Federal Register.
3. **Eliminate the provision allowing institutions to include the cost of books and supplies as part of tuition and fees (§ 668.164(c) and (m))**. Current regulations permit schools to automatically charge students for books and supplies as part of tuition and fees, without student authorization, even when the materials can be obtained from a source other than the institution. The regulations permit these charges if the school has a contract with a third-party publisher or retailer, offers the books “below competitive market rates,” and gives students a way to opt out, so long as the student can obtain the books and supplies by the seventh day of the payment period. The Department is concerned that lack of disclosure and transparency limits students' ability to find less expensive materials or assess if their school is offering the most affordable arrangement. Under the proposal, we would maintain the allowance for including books and supplies in tuition and fees when institutions demonstrate there is a compelling health or safety reason, or if the institution is the only option for students to access the books or supplies.
4. **Require institutions to issue a credit balance to any student that receives Title IV aid and has any amount of aid in excess of tuition and fees (§ 668.164(h)(1))**. When a student receives aid from various sources, including non-Title IV financial assistance, in excess of allowable charges, institutions are only required to pay students a credit balance if the Title IV funds received exceeds the charges on the student’s account. When students pay amounts in excess of allowable charges but their Title IV funds received do not exceed the charges on a student’s account, this can result in the student not receiving a credit balance. This proposal would change the definition of a Title IV credit balance to also take into account non-Title IV sources of funding if a student receives Title IV assistance. In such circumstances, any funds exceeding tuition and fees would be required to be issued as a credit balance within 14 days of the balance occurring on the student’s account.
5. **Revise regulations granting ED authority, on a case-by-case basis during the audit or program review processes, to direct institutions to make late disbursements beyond the 180-day limitation (§ 668.164 (j)(4)(i))**. A late disbursement is a disbursement of Title IV funds that occurs after a student becomes ineligible, either because they withdraw or because they have completed the payment period for which the disbursement was intended. Under the current regulations, schools may not make late disbursements more than 180 days after the institution determines a student withdrew or lost eligibility. There is no flexibility for ED to allow exceptions. However, there are occasions during audits and

program reviews when auditors and reviewers identify disbursement errors committed by the school that would justify a late disbursement to one or more students. This proposal would provide flexibility to consider additional information as appropriate.

6. **Allow late disbursement of loan funds in any payment period regardless of whether the student successfully completed the period for which the loan was intended (§ 668.164 (j)(4)(ii)).** Currently, students must successfully complete the period of enrollment to receive a second or subsequent late disbursement of a loan. This requirement means that some students who are unable to complete the period of enrollment due to financial limitations or other reasons may not be able to access additional aid in the form of a second disbursement, which could lead a student to stop out. This proposal would create parity for students who withdraw in a first or second payment period. It also would reduce the complexity of return of Title IV funds (R2T4) calculations by removing an impediment to making post-withdrawal disbursements of Direct Loan funds.

Under § 668.167, Severability:

1. **Consolidate ED regulations from program-specific regulations to cash management regulations related to overpayments.**
2. **Establish new deadlines.** To add clarity for partners and students, we propose the following deadlines for overpayments not tied to non-attendance (§ 668.21) or R2T4 (§ 668.22):
 - a. 30 calendar days. For instances of overpayment where the student is responsible, schools must notify the student and either receive payment in full or make satisfactory payment arrangements within 30 calendar days of discovery;
 - b. 15 calendar days. If the above 30 calendar days have elapsed and the school has not received the full overpayment or made satisfactory repayment arrangements, the school has an additional 15 calendar days to refer the overpayment to the Department (the total time frame thus would be 45 calendar days from discovery to referral); and
 - c. 45 calendar days. For instances of Federal student aid grant overpayments where the school is responsible, schools have 45 calendar days to resolve the overpayment.
3. **Modify small balance write-offs.** In applying a new adjusted rate to small write-offs, we propose to increase the amount for small balance write-offs for Federal Pell, TEACH, and FSEOG grants from \$25 to \$50, and for Direct Loans (loan servicers) from \$25 to \$100.

Proposed Regulation Redline:

§ 668.162 (d)(3) - Heightened cash monitoring payment method

(d) **Heightened cash monitoring payment method.** Under the heightened cash monitoring payment method, an institution must credit a student's ledger account for the amount of title IV, HEA program funds that the student or parent is eligible to receive, and pay the amount of any credit balance due under § 668.164(h), before the institution—

(1) Submits a request for funds under the provisions of the advance payment method described in paragraphs (b)(1) and (2) of this section, except that the institution's request may not exceed the amount of the disbursements the institution has made to the students included in that request; or

(2) Seeks reimbursement for those disbursements under the provisions of the reimbursement payment method described in paragraph (c) of this section, except that the Secretary may modify the documentation requirements and review procedures used to approve the reimbursement request.

(3) An institution that loses eligibility while on a heightened cash monitoring payment method must submit its final request for funds within 180 days from the date of loss of eligibility. Institutions must comply with any additional reporting requirements or procedures specified by the Secretary in relation to the submission of their final request for funds after the loss of eligibility. Failure to submit the final request for funds within the specified 180-day timeframe may result in forfeiture of the requested funds.

§668.164 (c)(1), (2) and (3) - Crediting a student's ledger account

(c) Crediting a student's ledger account.

(1) An institution may credit a student's ledger account with title IV, HEA program funds to pay for allowable charges associated with the current payment period. Allowable charges are—

(i) The amount of tuition, fees, and institutionally provided room and board assessed the student for the payment period or as provided in paragraph (c)(5) of this section, the prorated amount of those charges if the institution debits the student's ledger account for more than the charges associated with the payment period. Any title IV, HEA program funds allocated for meal plans must be fully utilized for the benefit of the respective students. No institution may retain unused meal plan funds that were paid for with title IV, HEA program funds, and any remaining balance at the end of the payment period must be

returned to the student as soon as possible but no later than 14 days after the end of the payment period;

- (ii) The amount incurred by the student for the payment period for purchasing books, supplies, and other educationally related goods and services provided by the institution for which the institution obtains the student's or parent's authorization under § 668.165(b).

(2) An institution may include the costs of books and supplies as part of tuition and fees under paragraph (c)(1)(i) of this section if –

- (i) The institution documents on a current basis that the books or supplies, including digital or electronic materials, are not available elsewhere or accessible by students enrolled in that program from sources other than those provided or authorized by the institution; or
- (ii) The institution demonstrates there is a compelling health or safety reason.

~~(A) Has an arrangement with a book publisher or other entity that enables it to make those books or supplies available to students below market competitive rates;~~

~~(B) Provides a way for a student to obtain those books and supplies by the seventh day of a payment period; and~~

~~(C) Has a policy under which the student may opt out of the way the institution provides for the student to obtain books and supplies under paragraph (c)(2). A student who opts out under this paragraph (c)(2) is considered to also opt out under paragraph (m)(3) of this section~~

~~(ii) The institution documents on a current basis that the books or supplies, including digital or electronic materials, are not available elsewhere or accessible by students enrolled in that program from sources other than those provided or authorized by the institution; or~~

~~(iii) The institution demonstrated there is a compelling health of safety reason.~~

(3)

(i) An institution may include in one or more payment periods for the current year, prior year charges of not more than ~~\$200~~ \$300 for—

(A) Tuition, fees, and institutionally provided room and board, as provided under paragraph (c)(1)(i) of this section, without obtaining the student's or parent's authorization; and

(B) Educationally related goods and services provided by the institution, as described in paragraph (c)(1)(ii) of this section if the institution obtains the student's or parent's authorization under § 668.165(b).

§668.164(h)(1) - Title IV, HEA credit balances

(h) Title IV, HEA credit balances.

- (1) A title IV, HEA credit balance occurs whenever the amount of title IV, HEA program funds and any other Federal or non-Federal funds, including but not limited to scholarships, grants, or private loans, credited to a student's ledger account for a payment period exceeds the amount assessed the student for allowable charges associated with that payment period as provided under paragraph (c) of this section.

§668.164 (j)(4)(i) and (ii) - Late disbursements

(j) Late disbursements –

(i) An institution may not make a late disbursement later than 180 days after the date the institution determines that the student withdrew, as provided in § 668.22, or for a student who did not withdraw, 180 days after the date the student otherwise became ineligible, pursuant to paragraph (j)(1) of this section. However, in the event of an audit or program review conducted by the Department, the Secretary may, at their discretion, direct institutions to make late disbursements after the applicable 180-day period.

~~(ii) An institution may not make a late second or subsequent disbursement of a loan under the Direct Loan program unless the student successfully completed the period of enrollment for which the loan was intended.~~

Note to the Committee – We propose to move the text from 668.164(l) to the newly proposed 668.167(a)

§668.164(l) and (m) – Returning Funds and Provision for books and supplies

~~(l) Returning funds–~~

~~(1) Notwithstanding any State law (such as a law that allows funds to escheat to the State), an institution must return to the Secretary any title IV, HEA program funds, except FWS program funds, that it attempts to disburse directly to a student or parent that are not received by the student or parent. For FWS program funds, the institution is required to return only the Federal portion of the payroll disbursement.~~

~~(2) If an EFT to a student's or parent's financial account is rejected, or a check to a student or parent is returned, the institution may make additional attempts to disburse the funds, provided that those attempts are made not later than 45 days after the EFT was rejected or the check returned. In cases where the institution does not make another attempt, the funds must be returned to the Secretary before the end of this 45-day period.~~

~~(3) If a check sent to a student or parent is not returned to the institution but is not cashed, the institution must return the funds to the Secretary no later than 240 days after the date it issued the check.~~

~~(m)~~ Provisions for books and supplies.

(1) An institution must provide a way for a student who is eligible for title IV, HEA program funds to obtain or purchase, by the seventh day of a payment period, the books and supplies applicable to the payment period if, 10 days before the beginning of the payment period—

(i) The institution could disburse the title IV, HEA program funds for which the student is eligible; and

(ii) Presuming the funds were disbursed, the student would have a credit balance under paragraph (h) of this section.

(2) The amount the institution provides to the student to obtain or purchase books and supplies is the lesser of the presumed credit balance under this paragraph or the amount needed by the student, as determined by the institution.

~~(3) The institution must have a policy under which the student may opt out of the way the institution provides for the student to obtain or purchase books and supplies under this paragraph (m). A student who opts out under this paragraph is considered to also opt out under paragraph (c)(2)(i)(C) of this section;~~

~~(4) If a student uses the method provided by the institution to obtain or purchase books and supplies under this paragraph, the student is considered to have authorized the use of title IV, HEA funds and the institution does not need to obtain a written authorization under paragraph (c)(1)(ii) of this section and § 668.165(b) for this purpose.~~

Notes to the Committee -

1. We propose to rename § 668.167 from "Severability" to "Returning Funds and Overpayments"

2. We propose to move existing severability language from current § 668.167 to a newly established § 668.169.
3. As noted earlier we propose to we propose to move the text from § 668.164(l) to the newly proposed § 668.167(a)
4. We propose to move the text in § 690.79 (Liability for and recovery of Federal Pell Grant overpayments) to paragraph § 668.167 (c).
5. We propose to move the text in §668.61 (Recovery of funds from interim disbursements) to paragraph § 668.167 (d).
6. We propose to move the text from § 686.45 (Liability for a recovery of TEACH Grant overpayments) to §668.167 (e) and name the section to “TEACH Grant Overpayments”.
7. We propose to move the text from § 673.5 (f) (Liability for and recovery of Federal Perkins loans and FSEOG overpayments) to § 668.167 (f) and name the section to “FSEOG Overpayments”.
8. We propose to move the text from § 668.35 (e) to § 668.167 (h) and name the section to “FSEOG Overpayments”.

§668.167 Returning Funds and Overpayments

(a) Returning funds.

(1) Notwithstanding any State law (such as a law that allows funds to escheat to the State), an institution must return to the Secretary any title IV, HEA program funds, except FWS program funds, that it attempts to disburse directly to a student or parent that are not received by the student or parent. For FWS program funds, the institution is required to return only the Federal portion of the payroll disbursement.

(2) If an EFT to a student's or parent's financial account is rejected, or a check to a student or parent is returned, the institution may make additional attempts to disburse the funds, provided that those attempts are made not later than 45 days after the EFT was rejected or the check returned. In cases where the institution does not make another attempt, the funds must be returned to the Secretary before the end of this 45-day period.

(3) If a check sent to a student or parent is not returned to the institution but is not cashed, the institution must return the funds to the Secretary no later than 240 days after the date it issued the check.

(b) Overpayments timelines.

(1) For overpayments for which the student is responsible and that are not tied to non-attendance or return of title IV, HEA funds, institutions must promptly send a written notice to the student requesting repayment of the overpayment amount. Institutions have 30 calendar days from the date the notice is sent to—

(i) Recover the overpayment in full; or

(ii) Enter into a repayment arrangement with the student that is satisfactory to the institution.

(2) If the initial 30 calendar days have elapsed and the institution has not received the full overpayment or made satisfactory repayment arrangements, the institution has 15 calendar days to—

(i) Report the overpayment to NSLDS; and

(ii) Refer the overpayment to the Department.

(3) For FSA grant overpayments for which the institution is responsible, institutions have 45 calendar days from the date of discovery to—

(i) For FSEOG, restore to the institution's FSEOG account an amount equal to the overpayment plus any administrative cost allowance claimed on the overpayment; and

(ii) For Federal Pell Grant and TEACH grant overpayments, make the appropriate downward adjustment to the student's award in the COD system and either return the funds through G5 or disburse them to other eligible students.

(4) For interim disbursement overpayments for which the institution is responsible and that are not recovered by reducing subsequent disbursements to students for the award year, institutions have 45 calendar days to make restitution to the appropriate account.

(c) Liability for and recovery of Federal Pell Grant overpayments.

(1) Except as provided in paragraphs (c)(2) and (3) of this section, a student is liable for any Federal Pell Grant overpayment made to them.

(2) The institution is liable for a Federal Pell Grant overpayment if the overpayment occurred because the institution failed to follow the procedures in this part or 34 CFR part 668. The institution must restore an amount equal to the overpayment to its Federal Pell Grant account.

(3) A student is not liable for, and the institution is not required to attempt recovery of or refer to the Secretary, a Federal Pell Grant overpayment if the amount of the overpayment is less than \$50 and is not a remaining balance.

(4) Except as provided in paragraph (c)(3) of this section, if an institution makes a Federal Pell Grant overpayment for which it is not liable, it must promptly send a written notice to the student requesting repayment of the overpayment amount. The notice must state that failure to make that repayment, or to make arrangements satisfactory to the holder of the overpayment debt to repay the overpayment, makes the student ineligible for further title IV, HEA program funds until final resolution of the Federal Pell Grant overpayment.

(5) If a student objects to the institution's Federal Pell Grant overpayment determination on the grounds that it is erroneous, the institution must consider any information provided by the student and determine whether the objection is warranted.

(6) Except as provided in paragraph (c)(3) of this section, if the student fails to repay a Federal Pell Grant overpayment or make arrangements satisfactory to the holder of the overpayment debt to repay the Federal Pell Grant overpayment, after the institution has taken the action required by paragraphs (c)(4) and (5) of this section, the institution must refer the overpayment to the Secretary for collection purposes in accordance with procedures required by the Secretary. After referring the Federal Pell Grant overpayment to the Secretary under this section, the institution need make no further efforts to recover the overpayment.

(d) Recovery of funds from interim disbursements.

(1) If an institution discovers, as a result of verification, that an applicant received under § 668.58(a)(2)(i)(B) more financial aid than the applicant was eligible to receive, the institution must eliminate the Federal Pell Grant or FSEOG overpayment by—

(i) Adjusting subsequent disbursements in the award year in which the overpayment occurred; or

(ii) Reimbursing the appropriate program account by—

(A) Requiring the applicant to return the overpayment to the institution if the institution cannot correct the overpayment under paragraph (d)(1) of this section; or

(B) Making restitution from its own funds, by the deadline specified in paragraph (b)(4) of this section.

(2) If an institution discovers, as a result of verification, that an applicant received under § 668.58(a)(2)(ii) more financial aid than the applicant was eligible to receive, the institution must eliminate the FWS overpayment by—

(i) Adjusting the applicant's other financial aid; or

(ii) Reimbursing the FWS program account by making restitution from its own funds if the institution cannot correct the overpayment under paragraph (d)(2)(i) of this section. The applicant must still be paid for all work performed under the institution's own payroll account.

(3) If an institution disbursed subsidized student financial assistance to an applicant under § 668.58(a)(3) and did not receive the valid SAR or valid ISIR reflecting corrections within the deadlines established under § 668.60, the institution must reimburse the appropriate program account by making restitution from its own funds. The applicant must still be paid for all work performed under the institution's own payroll account.

(e) TEACH Grant overpayments.

(1) Except as provided in paragraphs (e)(2) and (e)(3) of this section, a student is liable for any TEACH Grant overpayment made to them.

(2) The institution is liable for a TEACH Grant overpayment if the overpayment occurred because the institution failed to follow the procedures in this part or in 34 CFR part 668. The institution must restore an amount equal to the overpayment to its TEACH Grant account.

(3) A student is not liable for, and the institution is not required to attempt recovery of or refer to the Secretary, a TEACH Grant overpayment if the amount of the overpayment is less than ~~\$25~~ \$50 and is not a remaining balance.

(4) Except as provided in paragraph (e)(3) of this section, if an institution makes a TEACH Grant overpayment for which it is not liable, it must promptly send a written notice to the student requesting repayment of the overpayment amount. The notice must state that failure to make the requested repayment, or to make arrangements satisfactory to the holder of the overpayment debt to repay the overpayment, makes the student ineligible for further title IV, HEA program funds until final resolution of the TEACH Grant overpayment.

(5) If a student objects to the institution's TEACH Grant overpayment determination, the institution must consider any information provided by the student and determine whether the objection is warranted.

(6) Except as provided in paragraph (e)(3) of this section, if the student fails to repay a TEACH Grant overpayment or make arrangements satisfactory to the holder of the overpayment debt to repay the TEACH Grant overpayment, after the institution has taken the action required by paragraphs (e)(4) and (5) of this section, the institution must refer the overpayment to the Secretary for collection in accordance with procedures required by the Secretary. After referring the TEACH Grant overpayment to the Secretary under this section, the institution need make no further efforts to recover the overpayment.

(f) *FSEOG overpayments.*

(1) Except as provided in paragraphs (f)(2) and (3) of this section, a student is liable for any FSEOG overpayment made to them. An FSEOG overpayment for purposes of this paragraph does not include the non-Federal share of an FSEOG award if an institution meets its FSEOG matching share by the individual recipient method or the aggregate method.

(2) The institution is liable for an FSEOG overpayment if the overpayment occurred because the institution failed to follow the procedures in this part or 34 CFR parts 668, 674, or 676. The institution must restore an amount equal to the overpayment and any administrative cost allowance claimed on that amount to its FSEOG account for an FSEOG overpayment.

(3) A student is not liable for, and the institution is not required to attempt recovery of an FSEOG overpayment, nor is the institution required to refer an FSEOG overpayment to the Secretary, if the overpayment—

(i) Is less than ~~\$25~~ \$50; and

(ii) Is neither a remaining balance nor a result of the application of the overaward threshold in § 673.5(d).

(4) Except as provided in paragraph (f)(3) of this section, if an institution makes an FSEOG overpayment for which it is not liable, it must promptly send a written notice to the student requesting repayment of the overpayment amount. The notice must state that failure to make that repayment, or to make arrangements satisfactory to the holder of the overpayment debt to pay the overpayment, makes the student ineligible for further title IV, HEA program funds until final resolution of the overpayment.

(5) If a student objects to the institution's FSEOG overpayment determination on the grounds that it is erroneous, the institution must consider any information provided by the student and determine whether the objection is warranted.

(6) Except as provided in paragraph (f)(3) of this section, if a student fails to repay an FSEOG overpayment or make arrangements satisfactory to the holder of the overpayment debt to repay the FSEOG overpayment after the institution has taken the action required by paragraph (f)(4) of this section, the institution must refer the FSEOG overpayment to the Secretary for collection purposes in accordance with procedures required by the Secretary. After referring the FSEOG overpayment to the Secretary under this section, the institution need make no further effort to recover the overpayment.

(g) Direct Loan overpayments.

(1) A student is not liable for, and the institution is not required to attempt recovery of, a Direct Loan overpayment if the amount is less than \$100 and is not a remaining balance. Federal student loan servicers and lenders must write-off totals for borrowers (principal + interest) of \$100 or less after 30 days.

(h) Student overpayment debts.

(1) Except as provided in 34 CFR 668.22(h), a student who receives an overpayment under a title IV, HEA grant program may nevertheless be eligible to receive title IV, HEA program assistance if—

(i) The student pays the overpayment in full;

(ii) The student makes arrangements satisfactory to the holder of the overpayment debt to pay the overpayment;

(iii) The overpayment amount is less than ~~\$25~~ \$50 and is neither a remaining balance nor a result of the application of the overaward threshold in 34 CFR 673.5(d); or

(iv) The overpayment is an amount that a student is not required to return under § 668.22(h)(3)(ii)(B).

Note to the committee – as noted earlier we propose to move existing severability language from current §668.167 to a newly established §668.168.

§668.168 Severability

If any provision of this subpart or its application to any person, act, or practice is held invalid, the remainder of the section or the application of its provisions to any person, act, or practice shall not be affected thereby.