



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

Issue Paper 4: Withdrawals and Return of Title IV Funds Session 1: January 8-11, 2024

Issue:	Withdrawals and return of title IV funds
Statutory cites:	§ 484B of the Higher Education Act of 1965, as amended (HEA)
Regulatory cites:	34 CFR 668.21 and 668.22

Summary of Issues:

The Return of Title IV funds (R2T4) regulations govern the process institutions must conduct when a Title IV recipient ceases attendance during a payment period (term) or a period of enrollment. An R2T4 calculation determines, based on the proportion of a payment period a student completed, whether funds must be returned by the school and/or student, or whether the student is eligible for a post-withdrawal disbursement (PWD). R2T4 calculations differ based on program format (credit hour/clock hour) and module courses within terms. R2T4 is consistently in the top 10 compliance findings for schools, is the subject of an entire volume in the FSA handbook, and yields complex and challenging questions.

Through this rulemaking, the Department of Education (Department) seeks to: (1) help withdrawn students repay their credit balances; (2) increase the accuracy and simplicity of performing R2T4 calculations; (3) address unique circumstances for what constitutes a withdrawal; and (4) codify longstanding policies into regulation. Each of the proposals below is grouped in **bold** under one of these 4 four subject areas.

Proposal:

Under § 668.21(a)(2)(ii), Treatment of title IV grant and loan funds if the recipient does not begin attendance at the institution:

Help students repay their credit balances. Currently, students who receive a loan disbursement but never start attendance receive a final demand letter from the servicer for any funds not credited to the school. That amount must be repaid immediately. If the borrower does not or cannot repay the loan funds, the loan will go into default. If students have spent those funds already—on housing, for example—they could be forced to turn to private lenders to repay their loans.

Because regulations permit a school to credit a student's account 10 days before the start of classes, students who do not actually begin attendance can receive a loan disbursement. While the part of the disbursement credited to the school gets returned, the student must repay the funds they received directly. To help students repay these credit balances, we propose allowing students to repay the loan funds they received under the terms of their promissory note, rather than requiring immediate repayment. This would provide a grace period and allow the borrower to select a repayment plan that best meets their needs.

Under § 668.22(a)(2)(ii)(A)(2), Treatment of title IV funds when a student withdraws:

Increase accuracy and simplicity of performing R2T4 calculations. As part of the 2019 negotiated rulemaking, the Department adopted a withdrawal exemption for programs offered in modules that treats a student as not withdrawn if the student successfully completes one or more modules that make up 49% or more of the number of days in the payment period. Under the exemption, those students would be considered withdrawn unless they qualify for another withdrawal exemption, resulting in more money being returned to the Department and students not exhausting their aid eligibility as quickly.

Unfortunately, the module exemption has added complexity and confusion between the 60% completion requirement under the R2T4 calculation and the 49% completion requirement under withdrawal exemptions. It has also required significant guidance to explain how to determine whether a student qualifies for the exemption. To simplify the calculations, the Department proposes to eliminate the withdrawal exemption for programs offered in modules that treats a student as not withdrawn if the student successfully completes one or more modules that make up 49% or more of the number of days in the payment period. Under the proposed regulations those students would now be considered withdrawn unless they meet another withdrawal exemption, resulting in more money being returned to the Department and students not exhausting their aid eligibility as quickly.

Under § 668.22(a)(2)(ii)(A)(6), Treatment of title IV funds when a student withdraws:

Address unique circumstances for what constitutes a withdrawal. While the Department does not have the authority to prohibit an institution from collecting a debt owed by a student, we seek to incentivize institutions to not collect debts resulting from a student withdrawal by providing flexibility in conducting R2T4 calculations.

Many institutions maintain policies that allow students to receive full tuition and fee refunds in certain circumstances, e.g., if the student attended only a few days during a payment period or withdrew for medical reasons. These policies allow students who withdraw to avoid institutional debts and make it easier for those students to eventually re-enroll and complete their programs.

Current R2T4 regulations state that if a student begins attendance in the payment period (even if only one day), an institution must determine the amount of Title IV aid that the student earned as of their withdrawal date. If a student has not earned all disbursed aid, the unearned portion must be returned to the Department. This requires an institution to complete a R2T4 calculation for a student even if they have refunded 100% of that student's tuition and fees under a generous tuition refund policy.

We propose to change these requirements to treat a student as having never attended during a payment period if the institution: 1) treats the student as never having begun attendance; 2) refunds all the student's institutional charges for that period; 3) returns all of a student's Title IV funds for that period; and 4) writes off or cancels any debts owed to the institution that result from the return of Title IV funds. This would permit institutions that wish to maintain generous tuition refund policies to be exempt from performing an R2T4 calculation in cases where

students are made financially whole after withdrawing. It would also result in these withdrawn students having greater Pell Grant lifetime eligibility and reduce the likelihood of these students owing a debt to the Department or the institution.

Use of these generous tuition refund policies would be at the discretion of the institution. The Department hopes, however, that the reduced burden resulting from this exemption from the R2T4 process encourages institutions to maintain these policies for their students.

Under § 668.22(a)(2)(ii)(A)(7), Treatment of title IV funds when a student withdraws:

Address unique circumstances for what constitutes a withdrawal. There can be circumstances beyond the control of confined or incarcerated students or institutions of higher education (e.g., lockdowns, transfers) that require students to involuntarily withdraw from their programs. If a student ceases attendance and does not have an approved leave of absence as defined under the Department's regulations, the institution must perform an R2T4 calculation. If the institution returns Pell Grant funds to the Department, the confined or incarcerated student may be left with an institutional debt. It is also possible, though rare, that the student may need to return Pell Grant funds to the Department (Pell overpayment).

Under our proposed exception, the school would not have to return funds, reducing the possibility of outstanding institutional debt, and students would not owe a Pell Grant overpayment. Note that in these cases, even though the student would not complete all the coursework for the payment period, because the student is not considered withdrawn, all Pell Grant funds disbursed for the period would still count toward the student's lifetime Pell eligibility.

The Department proposes to create a provision with a non-exhaustive list that establishes situations that are out of the control of an incarcerated student that do not constitute a withdrawal.

Under § 668.22(b)(2), Treatment of title IV funds when a student withdraws.

Codify longstanding policies into regulation. The Department proposes to codify in regulation its longstanding sub-regulatory guidance requiring schools to determine the date that a student withdrew within 14 days for attendance-taking programs.

The date of determination is the date that the institution determined that the student ceased attendance. Under R2T4, schools must:

- Return funds as soon as possible, but no later than 45 days after that date;
- Notify the student within 30 days of that date that the student must repay any overpayment or make satisfactory arrangements to repay it;
- Offer a borrower a post-withdrawal disbursement of Title IV loan funds within 30 days of that date and request confirmation of acceptance; and
- Make post-withdrawal disbursements within 180 days of that date.

Under § 668.22(b)(3)(i), Treatment of title IV funds when a student withdraws:

Increase accuracy and simplicity of performing R2T4 calculations. Accurate withdrawal dates are key to understanding if and how much aid needs to be repaid in the event of a student withdrawal, but students in distance education programs may not formally withdraw since they are not on campus. The Department generally does not require institutions to take attendance for credit-hour programs. Under current regulations, when students withdraw without notification, a school that is not required to take attendance may use as a withdrawal date either the last date of an academically related activity that it has on record or the midpoint of the payment period. This can lead to institutions failing to report an accurate date, or using the date that allows the institution to keep the most money. With respect to distance education programs, however, institutions can easily determine when students stop attending, because students usually log in to a system to submit assignments, or attend lectures and course discussions, and are often continuously monitored to track academic engagement. In addition, some institutions with online programs are already required to take attendance in certain situations.

To increase the accuracy of calculations in distance education programs, the Department proposes to require institutions to take attendance in such education programs for R2T4 purposes, which would require schools to use actual attendance data to determine a student's withdrawal date for students enrolled entirely in online programs. This will increase the accuracy of R2T4 calculations for such students, simplify the Department's requirements by using available information already collected by an institution, and limit instances of inaccurate calculations and the gaming of R2T4 provisions by schools. Taking action and/or working with a student who has not been attending during a scheduled period for 14 days promotes good stewardship of Federal dollars as well as potentially assisting students during hardships.

Under § 668.22(f)(1)(ii)(A), Treatment of title IV funds when a student withdraws:

Increase accuracy and simplicity of performing R2T4 calculations. Currently, for an R2T4 calculation in a clock hour program, an institution may use two methods to determine the percentage of the payment period completed: cumulative and by payment period. Both methods are based on "scheduled hours," which are the hours a student was scheduled to complete within a payment period or period of enrollment as of their withdrawal date. This means an institution returns funds based on the amount of training that would have been completed, not necessarily how many hours the student actually attended. These methods differ significantly when a program contains two or more payment periods, which leads to widely varying calculations. The cumulative method considers the scheduled hours a student would have completed cumulatively across multiple payment periods, while the payment period method only considers the scheduled hours that have elapsed during a payment period since the student began attendance in that payment period. For example, an institution that uses the cumulative method may generate a higher earned funds percentage, and thus return a smaller amount of Title IV funds, when a student enters the subsequent payment period versus the actual scheduled hours contained within a specific payment period. Below is an example.

Academic Year: 900 hours

Payment Period: 450 hours

Scheduled Hours: 8 hours a day, 70 class days = 560 cumulative scheduled hours

Student completes 450 hours on day 68 and withdraws on day 70 after just beginning his second payment period.

	Method 1: Cumulative	Method 2: Payment Period
Scheduled hours for R2T4	560 – 450 = 110 hours	70 – 68 = 2 days, 16 hours
R2T4 Calculation	110 / 450 = 24.4% earned for second payment period	16 / 450 = 3.6% earned for second payment period

The Department’s concern is that schools have very little incentive to ensure students are progressing in their programs. In particular, the worst actors receive more Title IV money based on the use of cumulative scheduled hours as compared to the actual scheduled hours within a payment period.

To increase the accuracy of the calculation, the Department proposes to streamline how institutions determine the percentage of the payment period completed for a clock hour program. Providing one consistent way to calculate the percentage of the payment period completed will simplify R2T4 policy and reduce complexity and confusion. It will also provide incentives to schools to help students progress in their programs.

Under § 668.22(l)(9), Treatment of title IV funds when a student withdraws:

- 1. Increase accuracy and simplicity of performing R2T4 calculations.** Determining the number of days in the payment period (the denominator of the R2T4 calculation) for a program offered in modules is complex, with multiple options depending on the type of aid received and whether the school has a policy to freeze the number of days in a payment period for R2T4 purposes on a specific date. Such a policy is known as an “R2T4 freeze date.” The “freeze date” concept is important under current requirements because without it schools would find it very difficult to determine the denominator of the R2T4 calculation using the exact coursework a student was scheduled to attend at the time of their withdrawal. Currently, regulations do not describe this concept; but sub-regulatory guidance outlines what schools must consider when determining the number of days in a period when R2T4 is required for a program offered in modules. Audit and program review findings show that schools often make errors in R2T4 calculations involving modules.

To simplify the calculations, the Department proposes to modify the provision in the regulations to consider a module part of the payment period (the denominator of the R2T4 calculation) so long as a student attends the module. This would provide consistency across Title IV programs, simplify when and how to count scheduled days in a modular setting, and reduce burden for institutions and the Department, eliminating the need for a “freeze date” concept, while reducing the likelihood of students incurring institutional debt. This provision would strengthen the integrity of the Title IV programs significantly.

Proposed Regulations Redline:**§ 668.21(a)(2)(ii)**

(a) If a student does not begin attendance in a payment period or period of enrollment—

(2) For FFEL and Direct Loan funds—

(ii) For remaining amounts of FFEL or Direct Loan funds disbursed directly to the student for that payment period or period of enrollment, including funds that are disbursed directly to the student by the lender for a study-abroad program in accordance with § 682.207(b)(1)(v)(C)(1) or for a student enrolled in a foreign school in accordance with § 682.207(b)(1)(v)(D), the institution is not responsible for returning the funds, but must immediately notify the lender or the Secretary, as appropriate, when it becomes aware that the student will not or has not begun attendance so that the lender or Secretary will ~~issue a final demand letter to the borrower in accordance with 34 CFR 682.412 or 34 CFR 685.211, as appropriate~~ initiate borrower repayment under the terms of their promissory note; and

§ 668.22(a)(2)(ii)(A)(2)

(a) ***

(2) ***

(ii) (A)

(1) A student who completes all the requirements for graduation from his or her program before completing the days or hours in the period that he or she was scheduled to complete is not considered to have withdrawn;

(2) In a program offered in modules, a student is not considered to have withdrawn if the student successfully completes ~~coursework equal to or greater than the coursework required for the institution's definition of a "half-time student" under § 668.2 for the payment period;~~

~~(i) One module that includes 49 percent or more of the number of days in the payment period, excluding scheduled breaks of five or more consecutive days and all days between modules;~~

~~(ii) A combination of modules that when combined contain 49 percent or more of the number of days in the payment period, excluding scheduled breaks of five or more consecutive days and all days between modules; or~~

~~(iii) Coursework equal to or greater than the coursework required for the institution's definition of a half-time student under § 668.2 for the payment period;~~

§ 668.22(a)(2)(ii)(A)(6) and (7)

(a) ***

(2) ***

(ii) (A)

~~(6) A student is not considered to have withdrawn if –~~

~~(i) The institution's records treat a student as having never attended courses for that payment period or period of enrollment;~~

~~(ii) The institution returns all the title IV aid disbursed to the student for that payment period or period of enrollment;~~

~~(iii) The institution refunds all institutional charges to the student for the payment period or period of enrollment; and~~

~~(iv) The institution writes off or cancels any current year balance owed by the student to the institution due to the institution's returning of title IV funds to the Department.~~

~~(7) A confined or incarcerated individual as defined in 34 CFR 600.2 is not considered to have withdrawn anytime the requirements of an approved leave of absence are not met if any of the following events occur:~~

~~(i) A complete correctional facility wide lockdown.~~

~~(ii) Involuntary transfer to a different correctional facility.~~

~~(iii) Other events as determined by the Secretary.~~

§ 668.22(b)(2)

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

(1) For purposes of this section, for a student who ceases attendance at an institution that is required to take attendance, including a student who does not return from an approved leave of absence, as

defined in paragraph (d) of this section, or a student who takes a leave of absence that does not meet the requirements of paragraph (d) of this section, the student's withdrawal date is the last date of academic attendance as determined by the institution from its attendance records.

(2) An institution must, **within 14 days of a student's last date of attendance**, document a student's withdrawal date determined in accordance with paragraph (b)(1) of this section and maintain the documentation as of the date of the institution's determination that the student withdrew, **as defined in paragraph (1)(3) of this section**.

§ 668.22(b)(3)(i)(D)

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

(3) (i) An institution is required to take attendance if—

(A) An outside entity (such as the institution's accrediting agency or a State agency) has a requirement that the institution take attendance;

(B) The institution itself has a requirement that its instructors take attendance; ~~or~~

(C) The institution or an outside entity has a requirement that can only be met by taking attendance or a comparable process, including, but not limited to, requiring that students in a program demonstrate attendance in the classes of that program, or a portion of that program; **or**

(D) The institution offers a program through distance education as defined in 34 CFR 600.2.

§ 668.22(f)(1)(ii)(A)

(f) Percentage of payment period or period of enrollment completed.

(1) For purposes of paragraph (e)(2)(i) of this section, the percentage of the payment period or period of enrollment completed is determined—

(ii) (A) In the case of a program that is measured in clock hours, by dividing the total number of clock hours in the payment period or period of enrollment into the number of clock hours scheduled to be completed **since the student began attendance in the payment period or period of enrollment** as of the student's withdrawal date.

§ 668.22(l)(9)

(l) *Definitions.* For purposes of this section—

(9) A student in a program offered in modules is scheduled to complete the days in a module ~~if the student's coursework in that module was used to determine the amount of the student's eligibility for title IV, HEA funds for the payment period or period of enrollment.~~ only when a student begins attendance in the module.
