

~~§668.161—Scope and purpose (cash management rules).~~

~~(a) General. (1) This subpart establishes the rules and procedures under which a participating institution requests, maintains, disburses, and otherwise manages title IV, HEA program funds. This subpart is intended to—~~

~~(i) Promote sound cash management of title IV, HEA program funds by an institution;~~  
~~(ii) Minimize the financing costs to the Federal Government of making title IV, HEA program funds available to a student or an institution; and~~

~~(iii) Minimize the costs that accrue to a student under a title IV, HEA loan program.~~

~~(2) The rules and procedures that apply to an institution under this subpart also apply to a third-party servicer.~~

~~(3) As used in this subpart—~~

~~(i) The title IV, HEA programs include only the Federal Pell Grant, ACG, National SMARTIraq-Afghanistan Service Grant, TEACH Grant, FSEOG, Federal Perkins Loan, FWS, and Direct Loan, and FFEL programs, and any other program designated by the Secretary;~~

~~(ii) The term “parent” means a parent borrower under the PLUS programs;~~

~~(iii) With regard to the FFEL Programs, the term “disburse” means the same as deliver loan proceeds under 34 CFR part 682 of the FFEL Program regulations; and~~

~~(iv) (ii) A day is a calendar day, unless otherwise specified.;~~

~~(4iii) The term “parent” refers to the parent borrower of a Direct PLUS Loan;~~

~~(iv) An “institution must follow the disbursement procedures” includes a foreign institution as defined in 34 CFR 675.16 for paying a 600.52, unless otherwise specified;~~

~~(v) The term “student his or her wages under ledger account” refers to a bookkeeping account maintained and used by an institution to record the FWS Program instead of financial transactions pertaining to a student’s enrollment at the disbursement procedures in §§668.164(a), (b), and (d) institution.~~

~~(vi) The term “financial account” refers to a student’s or parent’s checking or savings account, or other consumer asset account, including a debit card account or prepaid card account, held by a financial institution;~~

~~(vii) The term “financial institution” means a bank, savings association, or credit union that is insured by the Federal Deposit Insurance Corporation (FDIC) or National Credit Union Share Insurance Fund (NCUSIF); and~~

(viii) The term “pass-through (g), and 668.165-deposit or share insurance” means that FDIC or NCUSIF deposit insurance coverage applies to the beneficiaries (students and parents) of a custodial account held at a financial institution.

(b) ~~Federal interest in title IV, HEA program funds.~~ Except for funds ~~received~~ provided by ~~an institution~~ the Secretary for administrative expenses, and for funds used for the Job Location and Development Program under subpart B of the FWS Programs regulations, funds received by an institution under the title IV, HEA programs are held in trust for the intended ~~student~~ beneficiaries; or the Secretary, or lender or a guaranty agency under the FFEL programs. The institution, as a trustee of Federal ~~those~~ funds, may not ~~use or hypothecate (i.e., use as collateral) title IV, HEA program funds for any other purpose.~~

(1) Use or hypothecate (i.e., use as collateral) the funds for any other purpose; or  
(2) Transfer or maintain the funds in a sweep account, or otherwise engage in any practice that risks the loss of those funds.

(c) Standard of conduct. An institution must exercise the level of care and diligence required of a fiduciary with regard to managing title IV, HEA program funds under this subpart.

#### **§668.162— Requesting funds.**

(a) ~~General.~~ ~~(1)~~ The Secretary has sole discretion to determine the method under which the Secretary provides title IV, HEA program funds to an institution. In accordance with procedures established by the Secretary, the Secretary may provide funds to an institution under the advance, reimbursement, ~~just in time~~, or cash monitoring payment methods.

~~(2) Each time an institution requests funds from the Secretary, the institution must identify the amount of funds requested by program and fiscal year designation that the Secretary assigned to the authorization for those funds.~~

(b) ~~Advance payment method.~~ ~~(1)~~ Under the advance payment method—

~~(1) An, an~~ institution submits a request for funds to the Secretary. The institution's request ~~for funds~~ may not exceed the amount of funds the institution needs immediately for disbursements the institution has made or will make to eligible students and parents;

(2) If the Secretary accepts that request, the Secretary initiates an electronic funds transfer (EFT) of that amount to the Federal bank account designated by the institution; and

(3) The institution must disburse the funds requested as soon as administratively feasible but no later than three business days following the date the institution received those funds.

~~(c) *Just in time payment method.* Under the just in time payment method—~~

~~(1) For each student or parent that an institution determines is eligible for title IV, HEA program funds, the institution transmits electronically to the Secretary, within a timeframe established by the Secretary, records that contain program award information for that student or parent. As part of those records, the institution reports the date and amount of the disbursements that it will make or has made to that student or that student's parent;~~

~~(2) For each record the Secretary accepts for a student or parent, the Secretary provides by EFT the corresponding disbursement amount to the institution on or before the date reported by the institution for that disbursement;~~

~~(3) When the institution receives the funds for each record accepted by the Secretary, the institution may disburse those funds based on its determination at the time the institution transmitted that record to the Secretary that the student is eligible for that disbursement; and~~

~~(4) The institution must report any adjustment to a previously accepted record within the time established by the Secretary in a notice published in the FEDERAL REGISTER.~~

~~(d) *Reimbursement payment method.* - (1) Under the reimbursement payment method—~~

~~(1) An an institution must first make disbursements to students and parents credit a student's ledger account, or pay the student or parent directly, for the amount of title IV, HEA program funds those students and parents are that the student or parent is eligible to receive, including the amount of any credit balance due under the Federal Pell Grant, ACG, National SMART Grant, TEACH Grant, Direct Loan, and campus-based programs §668.164(f), before the institution may seek seeks reimbursement from the Secretary for those disbursements. The Secretary considers an institution to have made a disbursement if the institution has either credited a student's account or paid a student or parent directly with its own funds;~~

~~(2) An institution seeks reimbursement by submitting to the Secretary a request for funds that does not exceed the amount of the actual disbursements the institution has made to students and parents included in that request;~~

~~(3) As part of the institution's sits reimbursement request, the Secretary requires the institution to must—~~

~~(i) Identify the students or parents for whom reimbursement is sought; and~~

~~\_\_\_\_\_ (ii) Submit to the Secretary, or entity approved by the Secretary, documentation that shows that each student and/or parent included in the request was eligible—~~

(A) Eligible to receive and has received the title IV, HEA program funds for which reimbursement is sought; and

(B) Paid directly any credit balance due under §668.164(f).

(4) The Secretary approves the amount of the institution's reimbursement request for a student or parent and pays/initiates an EFT of that amount to the Federal bank account designated by the institution ~~that amount~~, if the Secretary determines with regard to that student or parent that the institution—

(i) Accurately determined the student's or parent's eligibility for title IV, HEA program funds;

(ii) Accurately determined the amount of title IV, HEA program funds disbursed, including the amount paid directly to the student or parent; and

(iii) Submitted the documentation required under paragraph ~~(d)(3) of this section.~~

~~(e) Cash/d) Heightened cash monitoring (HCM) payment method.~~ Under the heightened cash monitoring payment method, ~~the Secretary provides title IV, HEA program funds to an institution under the provisions described in paragraph (e)(1) or (e)(2) of this section. Under either paragraph (e)(1) or (e)(2) of this section,~~ an institution must first make disbursements to students and parents credit a student's ledger account, or pay the student or parent directly, for the amount of title IV, HEA program funds that ~~those students and parents are~~ the student or parent is eligible to receive, including the amount of any credit balance due under §668.164(f), before the institution—

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

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

#### **§668.163—Maintaining and accounting for funds.**

(a)(1) ~~Bank or investment~~ Federal bank account.—An institution must maintain title IV, HEA program funds in a bank ~~or investment~~ account that is Federally in its name, under its

control, and federally insured. For an institution located in a State, the bank account must be insured by the FDIC or NCUSIF. For a foreign institution, the bank account may be insured by the FDIC or NCUSIF, or secured by collateral of value reasonably by an equivalent to the amount agency of the federal or central government of those funds, the country in which the institution is located. If there is no equivalent agency, the Secretary may approve a bank account designated by the foreign institution.

(2) For each bank ~~or investment~~ account that includes title IV, HEA program funds, an institution must clearly identify that title IV, HEA program funds are maintained in that account by—

(i) Including in the name of each bank account the phrase “Federal Funds”; or

(ii)(A) Notifying the ~~bank or investment company of the accounts~~ financial institution that ~~contain the bank account contains~~ title IV, HEA program funds that are held in trust and retaining a record of that notice; and

(B) Except for a public institution located in a State or a foreign institution, filing with the appropriate State or municipal government entity a UCC—1 statement disclosing that the bank account contains Federal funds and maintaining a copy of that statement.

~~(b) Separate bank account. The Secretary may require an institution to maintain title IV, HEA program funds in a separate bank or investment account that contains no other funds if the Secretary determines that the institution failed to comply with—~~

~~(1) The requirements in this subpart;~~

~~(2) The recordkeeping and reporting requirements in subpart B of this part; or~~

~~(3) Applicable program regulations.~~

~~(c) Interest-bearing or investment account. (1) An institution must maintain the Fund described in §674.8(a) of the title IV, HEA program funds in a separate Federal bank account that contains no other funds.~~

~~(c) Interest-bearing bank account Except for Federal Perkins Loan Program regulations in funds, an institution is not required to maintain title IV, HEA program funds in an interest-bearing bank account or investment account consisting predominately of low-risk, income-producing securities, such as obligations issued or guaranteed by the United States. Interest or income.~~

~~(1) Any interest earned on Fund proceeds are Federal Perkins Loan Program funds is retained by the institution as part of the Fund provided under 34 CFR 674.8(a).~~

~~(2) Except as provided in paragraph (c)(3) of this section, an institution must maintain Direct Loan, Federal Pell Grant, ACG, National SMART Grant, TEACH Grant, FSEOG, and FWS program funds in an interest-bearing bank account or an investment account as described in paragraph (c)(1) of this section.~~

~~(3) An institution does not have to maintain Direct Loan, Federal Pell Grant, ACG, National SMART Grant, TEACH Grant, FSEOG, and FWS~~(2) If an institution maintains other title IV, HEA program funds in an interest-bearing bank account or an investment account for an award year if—

~~(i) The institution drew down less than a total of \$3 million of those funds in the prior award year and anticipates that it will not draw down more than that amount in the current award year;~~

~~(ii) The institution demonstrates by its cash management practices that it will not earn over \$250 on those funds during the award year; or~~

~~(iii) The institution requests those funds from the Secretary under the just in time payment method.~~

~~(4) If an institution maintains Direct Loan, Federal Pell Grant, ACG, National SMART Grant, TEACH Grant, FSEOG, and FWS program funds in an interest-bearing or investment account, the institution may keep the initial \$250 it earns on those funds during an award year. By June 30 of that award year, the institution must remit to the Secretary any earnings over \$250.~~

~~(d) Accounting and internal control systems and financial records. (1) An institution must maintain accounting and internal control systems that—~~

~~(i) Identify the cash balance of the funds of each title IV, HEA program that are included in the institution's bank or investment account as readily as if those program funds were maintained in a separate account; and~~

~~(ii) Identify the earnings on title IV, HEA program funds maintained in the institution's bank or investment account.~~

~~(2) An institution must maintain its financial records in accordance with the provisions under §668.24.~~

~~(e) Standard of conduct. An institution must exercise the level of care and diligence required of a fiduciary with regard to maintaining and investing title IV, HEA program funds.~~

**§668.164—Disbursing funds.**

~~(a) Disbursement. (1) Except as provided in under paragraph (a)(2) of this section, an institution makes,~~ a disbursement of title IV, HEA program funds occurs on the date that ~~the~~

(i) The institution credits at the student's ledger account at the institution or pays at the student or parent directly with—

(iA) Funds received from the Secretary;

~~(ii) Funds received from a lender under the FFEL Programs;~~ or

~~(iiiB) Institutional funds used in advance of receiving title IV, HEA program funds.~~

~~(2) If, earlier than 10 days before the first day of classes of a payment period,; or for~~

(ii) As provided under paragraph (d)(3), the Secretary pays a student or parent directly.

(2)(i) For a Direct Loan where the student is subject to the delayed disbursement requirements of §682.604(e)(5) or §under 34 CFR 685.303(b)(4), if an institution credits a student's ledger account with institutional funds earlier than 30 days after the first day beginning of a payment period, the Secretary considers that the institution makes that disbursement on the 30th day after the beginning of the payment period; or

(ii) If an institution credits a student's institutional ledger account with institutional funds in advance of receiving title IV, HEA program funds earlier than 10 days before the first day of classes of a payment period, the Secretary considers that the institution makes that disbursement on the 10th day before the first day of classes, or the 30th day after the beginning of the payment period for a student subject to the requirements of §682.604(e)(5) or §685.303(b)(4). of a payment period.

~~(b) Disbursements by payment period. (1) Except for paying a student FWS wages at least once a month, as provided in paragraph (b) under 34 CFR 675.16(a)(2) of this section, or for making early, late, or retroactive disbursements, as provided under paragraphs (g), (h), and (i) respectively, an institution must disburse during each payment period the amount of title IV, HEA program funds on a that an enrolled student or parent is eligible to receive for that payment period basis.~~

(c) Crediting a student's ledger account. (1) An institution must disburse may credit a student's ledger account with Direct PLUS Loan funds the parent authorizes a student to receive,

and other title IV, HEA program funds—once each, to pay for allowable charges associated with the current payment period—unless. Allowable charges include—

(i) For FFEL and Direct Loan funds, 34 CFR 682.604(e)(6)(ii) or 34 CFR 685.301(b)(3) applies;

(ii) For Federal Perkins Loan, FSEOG, Federal Pell Grant, ACG, and National SMART Grant funds, an institution chooses to make more than one disbursement in each payment period in accordance with 34 CFR 674.16(b)(3), 34 CFR 676.16(a)(3), 34 CFR 690.76, or 34 CFR 691.76, as applicable; or

(iii) Other program regulations allow or require otherwise.

(2) The provisions of paragraph (b)(1) of this section do not apply to the disbursement of FWS Program funds.

(3)(i) The amount of tuition, fees, and institutionally provided room and board assessed the student for the payment period, or as provided under paragraph (c)(5), 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; and

(ii) The costs 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 not include the cost of books and supplies as part of tuition and fees under paragraph (c)(1)(i).

(3) For allowable charges stemming from a previous payment period in the current award year, an institution may associate those charges with the current payment period.

(4) For charges stemming from a prior award year, an institution may associate those charges with the current payment period if those charges are not more than \$200 for—

(i) Tuition, fees, and institutionally-provided room and board; and

(ii) As provided in paragraph (c)(1)(ii), educationally related goods and services provided by the institution for which the institution obtains the student's or parent's authorization.

(5) For purposes of this section, an institution determines the prorated amount of charges associated with the current payment period by—

(i) For a program with equal payment periods, dividing the total institutional charges for the program by the number of payment periods in the program; or



(ii) For other programs, dividing the number of credit or clock hours the student enrolls in, or is expected to complete, in the current payment period, by the total number of credit or clock hours in the program and multiplying that result by the total institutional charges for the program.

(d) Direct payments. (1) Except as provided in ~~under~~ paragraph ~~(g) of this section,~~ d(3), an institution ~~may disburse~~ makes a direct payment—

(i) To a student, for the amount of the title IV, HEA program funds ~~to that~~ a student ~~or~~ parent for a payment period only if the student is enrolled for classes for that payment period and is eligible to receive ~~those, including Direct PLUS Loan funds; that the student's parent~~ authorized the student to receive, by—

(e) ~~Direct payments. (1) An~~ (A) Initiating an EFT of that amount to the student's financial account;

(B) Issuing a check for that amount payable to the student; or

(C) Dispensing cash for which the institution ~~pays a student or parent directly~~ obtains a receipt signed by—

(i) ~~Releasing to~~ the student ~~or,~~

(ii) To a parent, for the amount of the Direct PLUS Loan funds that a parent ~~a check~~ provided ~~does not authorize the student to receive,~~ by ~~a lender to the institution under the FFEL Program;~~ —

(~~ii~~ (A) Initiating an EFT of that amount to the parent's financial account;

(B) Issuing a check for that amount payable to ~~and requiring the endorsement of the student or parent;~~ or

(C) Dispensing cash for which the institution obtains a receipt signed by the parent.

(2) Issuing a check. An institution issues a check on the date that it— —

(A) ~~i~~ Mails the check to the student or parent; or

(B) ~~ii~~ Notifies the student or parent that the check is available for immediate ~~pick up~~ pick-up at a specified location at the institution. The institution may hold the check for ~~up to no longer~~ than 21 days after the date it notifies the student or parent. If the student or parent does not pick up the check ~~within this 21-day period,~~ the institution must immediately mail the check to the student or parent, ~~initiate an EFT to pay~~ the student's or ~~parent's bank account~~ parent directly by other means, or return the funds to the appropriate title IV, HEA program; —

~~(iii) Initiating an EFT to a bank account designated~~ 3) Payments by the student ~~Secretary.~~

~~The Secretary may pay, or parent; or~~

~~(iv) Dispensing cash for which the~~ require an institution ~~obtains a signed receipt from the student or parent.~~

~~(2) For purposes of this section, “bank account” means an account insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF). This account may be a checking, savings, or similar account that underlies a stored-value card or other transaction device.~~

~~(3) An institution may establish a policy requiring its students to provide bank account information or open an account at a bank of their choosing as long as this policy does not delay the disbursement of~~ to pay, title IV, HEA program funds to students. ~~Consequently, if a student does not comply with the institution's policy, the institution must nevertheless disburse the funds to the student~~ directly to a student or parent ~~using a method described in paragraph (e) of this section in accordance with any timeframes required under subpart k of this part. In cases where the institution opens a bank account on behalf of a student or parent, establishes a process the student or parent follows to open a bank account, or similarly assists the student or parent in opening a bank account, the institution must~~ —established or authorized by the Secretary.

~~(4) Conditions for making a direct payment. In making a direct payment, the institution—~~

~~(i) May not require any student or parent to open or use a financial account at a specific financial institution; and~~

~~(ii)(A) Must request each student or parent to provide the information needed to make an EFT to the financial account the student or parent opened without assistance from the institution and use that financial account if the student or parent provides that information; or~~

~~(B) If the student or parent does not have, or provide information about, a financial account, the institution may assist the student or parent in opening a financial account under paragraph (e).~~

~~(5) Student choice. If an institution establishes a process under which a student or parent is offered options for receiving a direct payment, the institution must ensure that—~~

~~(i) The options are described clearly and presented in a neutral manner, e.g., the student or parent is not steered to, or compelled to select, a particular option; and~~

(ii) The process for making direct payments electronically to a financial account designated by the student or parent under paragraph (4)(ii)(A), or otherwise selected by the student or parent, is as timely and no more onerous than making direct payments to a sponsored account under paragraph (e).

(e) Sponsored account. If an institution located in any State, as defined in 600.2, establishes a process that a student or parent follows to open a financial account, either through a contract with a third-party servicer or through any arrangement with an entity under which any party to the arrangement exercises any control over the financial account into which the student's title IV, HEA program funds are transferred or deposited, the institution—

(1) Must disclose conspicuously on its website, and otherwise make public, that contract or arrangement in its entirety;

(2) Before the student's or parent's financial account is opened and before the student or parent may activate a debit card, prepaid card, or access device associated with the account, must—

(i) Inform the student or parent of the terms and conditions of the account; and

(ii) Obtain in writing affirmative consent from the student or parent to open the account;

(iii) Before the account is opened, inform the student or parent about the terms, conditions, and conditions of the debit card, prepaid card, or access device associated with accepting and using the account; to ensure that the information is presented to the student in an objective and neutral manner;

(iii) Not (4) May not send a debit card, prepaid card, or access device associated with the account to a student or parent unless the student or parent specifically requests it after providing consent as required in paragraph (e)(2);

(5) May not offer a debit card, prepaid card, or access device associated with the account that bears the institution's logo or mascot, or that otherwise implies an affiliation with the institution;

(6) May not provide to the servicer or entity any information about the student or parent until after the student or parent consents affirmatively to open the account under paragraph (e)(2);

(7) May not make any claims against the funds in the account without the written permission of the student or parent, except for correcting an error in transferring the funds in accordance with banking protocols;

~~(iv) Ensure~~(8) Must ensure that the student ~~or parent~~ does not incur any cost in ~~opening~~

(i) Opening the financial account or initially receiving ~~any type of the~~ debit card, ~~stored-value~~prepaid card, ~~other type of or~~ access device associated with the account;

(ii) Maintaining the account; or

(iii) Using the debit card, prepaid card, or access device to conduct any transaction at any automated teller machine (ATM) card, or similar transaction device that is used to access the funds in that account; located in any State as defined in 600.2;

~~(v) Ensure that the student has convenient access to a branch office of the bank or an ATM of the bank in which the account was opened (or an ATM of another bank), so that the student does not incur any cost in making cash withdrawals from that office or these ATMs. This branch office or these ATMs must be located on the institution's campus, in institutionally-owned or operated facilities, or, consistent with the meaning of the term "Public Property" as defined in §668.46(a), immediately adjacent to and accessible from the campus;~~

~~(vi) Ensure that the debit, stored value or ATM card, or other device can be widely used, e.g., the institution may not limit the use of the card or device to particular vendors; and~~

~~(vii) Not~~(9) Must ensure that the debit card, prepaid card, or access device associated with the account can be used nationally;

(10) May not market or portray the financial account, debit card, prepaid card, or access device as a credit card or credit instrument, or subsequently convert the account, card, or device to a credit card or credit instrument.;

~~(d) Crediting a student's~~(11) May not assess the student or parent any overdraft fees if the financial account at the institution. An institution may useis overdrawn;

(12) Regardless of the debit card, prepaid card, or access device associated with the financial account, must ensure that—

(i) The provider of the card or device provides the student or parent with pass-through deposit or share insurance;

(ii) The card or device does not have an attached line of credit or loan feature under which repayment from the account is triggered upon the delivery of a Federal payment, including

~~a deposit or transfer of title IV, HEA program funds to credit a student's account at the institution to satisfy—into the account; and~~

~~(1) Current year charges for—~~

~~(i) Tuition and fees;~~

~~(ii) Board, if (iii) The account provides the student ~~contracts or parent~~ with all the institution for board;~~

~~(iii) Room, if consumer protections that apply to a payroll card account under the student contracts with the institution for room Electronic Fund Transfers Act, as amended; and~~

~~(iv) If the institution obtains the student's or parent's authorization under §668.165(b), other educationally related charges incurred by the student at the institution; and~~

~~(2) Prior award year charges for a total of not more than \$200 for—~~

~~(i) Tuition and fees, room, or board; and~~

~~(ii) If the institution obtains the student's or parent's authorization under §668.165(b), other educationally related charges incurred by the student at the institution.~~

~~(e) *Credit balances.* Whenever an institution disburses title IV, HEA program funds by crediting a student's account and the total (13) Ensure that the financial account is in the student's or parent's name, or for a financial account that is a pooled custodial account, the subaccount (or card or device) is in the student's or parent's name. The custodial bank account must be established in the name of the institution or the institution's third party servicer, and must be set up to ensure that any title IV, HEA program funds that become the pooled funds of the custodial account are credited immediately to the student's or parent's subaccount (or card or device).~~

~~(f) Title IV, HEA credit balances. (1) A title IV, HEA credit balance occurs whenever the amount of all title IV, HEA program funds credited to a student's account for a payment period exceeds the amount of tuition and fees, room and board, and other authorized charges the institution assessed the student, the for allowable charges associated with that payment period as provided under paragraph (c).~~

~~(2) Except as provided in paragraph (f)(3), an institution must pay the resulting a title IV, HEA credit balance directly to the student or parent as soon as possible, but no later than—~~

~~(1) No later than (i) 14 days after the balance occurred if the credit balance occurred after the first day of class of a payment period; or~~

~~(2) No later than~~(ii) 14 days after the first day of class of a payment period if the credit balance occurred on or before the first day of class of that payment period.

~~(f)3) An institution must delay making a direct payment if the institution has information that—~~

~~(i) The student or parent is engaged in an activity that is known or intended to defraud the Federal government;~~

~~(ii) The person attending, or seeming to attend, classes at the institution is not the student for whom the payment is intended; or~~

~~(iii) The student is enrolled at the institution for the sole purpose of obtaining title IV, HEA program funds.~~

~~(g) Early disbursements. - (1) Except as provided underin paragraph (f)(3) of this section—~~

~~(1) If (2) for a first-year, first-time borrower or a student is enrolled in a credit-hour educational program employed under the FWS program that is offered in semester, trimester, or quarter academic terms, the earliest an institution may disburse title IV, HEA program funds to an eligible student or parent for any payment period is—~~

~~(i) If the student is enrolled in a credit-hour program offered in terms that are substantially equal in length, 10 days before the first day of classes for of a payment period;~~

~~(ii) If the student is enrolled in a credit-hour educational program that is not offered in semester, trimester, or quarter academic terms, or in that are not substantially equal in length, a non-term credit-hour program, or a clock hour educational program the earliest an institution may disburse title IV, HEA program funds to a student or parent for any payment period is program, the later of—~~

~~(A) Ten days before the first day of classes of thea payment period; or~~

~~(B) The date the student completed the previous payment period for which he or she received title IV, HEA program funds, except that this provision does not apply to the payment of Direct Loan or FFEL program funds under the conditions described in 34 CFR 685.301 (b)(3)(ii), (b)(5), and (b)(6) and 34 CFR 682.604 (c)(6)(ii), (c)(7), and (c)(8), respectively.~~

~~(3) The earliest an 2) An institution may disburse the initial installment not—~~

~~(i) Make an early disbursement of a loan under the Direct Loan or FFEL programs to a first-year, first-time borrower as described who is subject to the 30-day delayed disbursement~~

requirements in 34 CFR 682.604(e) and 685.303(b)(4). This restriction does not apply if the institution is exempt from the 30-day delayed disbursement requirements under 34 CFR 685.303(b)(4) is 30 days after the first day of (i)(A) or (B); or

(ii) Compensate a student employed under the student's FWS program of study until the student earns that compensation by performing work, as provided in 34 CFR 675.16(a)(5).

~~(g)h) Late disbursements—(1) Ineligible student.~~ For purposes of this paragraph, an otherwise eligible student becomes ineligible to receive title IV, HEA program funds on the date that—

(i) For a ~~loan under the FFEL and~~ Direct Loan ~~programs~~, the student is no longer enrolled at the institution as at least a half-time student for the period of enrollment for which the loan was intended; or

(ii) For an award under the Federal Pell Grant, ~~ACG, National SMART Grant,~~ FSEOG, Federal Perkins Loan, Iraq-Afghanistan Service Grant, and TEACH Grant programs, the student is no longer enrolled at the institution for the award year.

~~(2) Conditions for a late disbursement.~~ Except as limited under paragraph ~~(gh)(4) of this section,~~ a student who becomes ineligible ~~(or the student's parent, as described in the case of a PLUS loan)~~ paragraph (h)(1), qualifies for a late disbursement (and the parent qualifies for a parent Direct PLUS Loan disbursement) if, before the date the student became ineligible—

(i) The Secretary processed a SAR or ISIR with an official expected family contribution for the student for the relevant award year; and

~~(ii)(A)~~ For a loan made under the ~~FFEL or~~ Direct Loan ~~programs~~ Program or for an award made under the TEACH Grant Program, the institution ~~certified or~~ originated the loan or award;

(B) For an award under the Federal Perkins Loan or FSEOG programs, the institution made that award to the student; ~~or,~~

~~(C) For an award under the TEACH Grant program, the institution originates the award to the student.~~

~~(3) Making a late disbursement.~~ Provided that the conditions described in paragraph ~~(gh)(2) of this section~~ are satisfied—

(i) If the student withdrew from the institution during a payment period or period of enrollment, the institution must make any post-withdrawal disbursement required under §668.22(a)(4) in accordance with the provisions of §668.22(a)(5);

(ii) If the student ~~successfully~~ completed the payment period or period of enrollment, the institution must provide the student ~~(or parent)~~ the ~~opportunity choice~~ to receive the amount of title IV, HEA program funds that the student ~~(or parent)~~ was eligible to receive while the student was enrolled at the institution. For a late disbursement in this circumstance, the institution may credit the student's ledger account ~~to pay for current and allowable charges as described provided in paragraph (d) of this section, but must pay or offer any remaining amount to the student or parent;~~c; or

(iii) If the student did not withdraw but ceased to be enrolled as at least a half-time student, the institution may make the late disbursement of a loan under the ~~FFEL or~~ Direct Loan programs to pay for educational costs that the institution determines the student incurred for the period in which the student or parent was eligible.

(4) ~~Limitations.~~ (i) An institution may not make a late disbursement later than 180 days after the date ~~of the institution's determination~~ 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 becomes ineligible, pursuant to paragraph (h)(1).

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

(iii) An institution may not make a late disbursement of a ~~loan under the FFEL or~~ Direct Loan programs if the student was a first-year, first-time borrower as described in 34 CFR 685.303(b)(4) unless the student completed the first 30 days of his or her program of study. This limitation does not apply if the institution is exempt from the 30-day delayed disbursement requirements under ~~§682.604(e)(5)(i), (ii), or (iii) or §34 CFR~~ 685.303(b)(4)(i)(A), (B), or (C) of this chapter.

(iv) An institution may not make a late disbursement of any title IV, HEA program assistance unless it received a valid SAR or a valid ISIR for the student by the deadline date established by the Secretary in a notice published in the Federal Register.



~~(h) Returning funds.~~ (i) Retroactive payments. If an institution did not make a disbursement to an enrolled student for a payment period the student completed (for example, because of an administrative delay or because for some reason the student did not appear to qualify to receive the funds), the institution may pay the student for all prior payment periods in the current award year for which the student was eligible or subsequently established eligibility in accordance with program regulations.

(j) 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, ~~lender, or guaranty agency,~~ any title IV, HEA program funds, except FWS program funds, that it attempts to disburse directly to a student or parent ~~but that are not received by~~ the student or parent ~~does not receive or negotiate those funds.~~ For FWS program funds, the institution is required to return only the Federal portion of the payroll disbursement.

(2) If an ~~institution attempts EFT to disburse the funds by a student's or parent's financial account is rejected, or a~~ check ~~and the check is not cashed, the institution must return the funds no later than 240 days after the date it issued that check.~~

~~(3)(i) If to a check student or parent~~ is returned ~~to the institution, or an EFT is rejected,~~ the institution may make additional attempts to disburse the funds, provided that those attempts are made not later than 45 days after the ~~funds were~~ EFT was rejected or the check returned ~~or rejected.~~ 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; ~~and.~~

~~(ii) No later than the 240 day period described in paragraph (h)(2) of this section~~ (3) If a check sent to a student or parent is not returned but is not cashed, the institution must ~~cease any additional disbursement attempts and immediately~~ return those funds to the Secretary no later than 240 days after the date it issued the check.

~~(k) Provisions for books and supplies.~~ (1) An institution must provide a way for a ~~Federal Pell Grant~~ student who is eligible ~~student~~ for title IV, HEA program funds to obtain or purchase, by the seventh day of a payment period, the books and supplies ~~required for 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 (ef) of this section.

(2) The amount the institution provides to the ~~Federal Pell Grant eligible~~ 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 ~~a Federal Pell Grant eligible~~ the student may opt out of the way the institution provides for the student to obtain or purchase books and supplies under this paragraph.

(4) If a ~~Federal Pell Grant eligible~~ student uses the way 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 (d)(1)(iv) ~~of this section~~ (c) and §668.165(b) for this purpose.

**§668.165—~~Notices and authorizations.~~**

(a) Notices. (1) Before an institution disburses title IV, HEA program funds for any award year, the institution must notify a student of the amount of funds that the student or his or her parent can expect to receive under each title IV, HEA program, and how and when those funds will be disbursed. If those funds include Direct Loan ~~or FFEL~~ Program funds, the notice must indicate which funds are from subsidized loans and which are from unsubsidized loans.

(2) Except in the case of a post-withdrawal disbursement made in accordance with §668.22(a)(5), if an institution credits a student's account at the institution with Direct Loan, ~~FFEL~~, Federal Perkins Loan, or TEACH Grant Program funds, the institution must notify the student or parent of—

(i) The anticipated date and amount of the disbursement;

(ii) The student's right or parent's right to cancel all or a portion of that loan, loan disbursement TEACH Grant, or TEACH Grant disbursement and have the loan proceeds ~~returned to the holder of that loan, the~~ and TEACH Grant proceeds returned to the Secretary. ~~However, if the institution releases a check provided by a lender under the FFEL Program, the institution is not required to provide this information;~~ and

(iii) The procedures and time by which the student or parent must notify the institution that he or she wishes to cancel the loan, loan disbursement, TEACH Grant, or TEACH Grant disbursement.

(3) The institution must provide the notice described in paragraph (a)(2) ~~of this section~~ in writing—

(i) No earlier than 30 days before, and no later than 30 days after, crediting the student's ~~ledger~~ account at the institution, if the institution obtains affirmative confirmation from the student under paragraph (a)(6)(i) ~~of this section~~; or

(ii) No earlier than 30 days before, and no later than seven days after, crediting the ~~student~~ student's ledger account at the institution, if the institution does not obtain affirmative confirmation from the student under paragraph (a)(6)(i) ~~of this section~~.

(4)(i) A student or parent must inform the institution if he or she wishes to cancel all or a portion of a loan, loan disbursement, TEACH Grant, or TEACH Grant disbursement.

(ii) The institution must return the loan or TEACH Grant proceeds, cancel the loan or TEACH Grant, or do both, in accordance with program regulations provided that the institution receives a loan or TEACH Grant cancellation request—

(A) ~~The~~ By the later of the first day of a payment period or 14 days after the date it notifies the student or parent of his or her right to cancel all or a portion of a loan or TEACH Grant, if the institution obtains affirmative confirmation from the student under paragraph (a)(6)(i) ~~of this section~~; or

(B) Within 30 days of the date the institution notifies the student or parent of his or her right to cancel all or a portion of a loan, if the institution does not obtain affirmative confirmation from the student under paragraph (a)(6)(i) ~~of this section~~.

(iii) If a student or parent requests a loan cancellation after the period set forth in paragraph (a)(4)(ii)(A) or (B) ~~of this section~~, the institution may return the loan or TEACH Grant proceeds, cancel the loan or TEACH Grant, or do both, in accordance with program regulations.

(5) An institution must inform the student or parent in writing regarding the outcome of any cancellation request.

(6) For purposes of this section—

(i) Affirmative confirmation is a process under which an institution obtains written confirmation of the types and amounts of title IV, HEA program loans that a student wants for ~~an award year~~ the period of enrollment before the institution credits the student's account with those

loan funds. The process under which the TEACH Grant program is administered is considered to be an affirmative confirmation process; and

(ii) An institution is not required to return any loan or TEACH Grant proceeds that it disbursed directly to a student or parent.

(b) Student or parent authorizations. (1) If an institution obtains written authorization from a student or parent, as applicable, the institution may—

(i) Use the student's or parent's title IV, HEA program funds to pay for charges described in §668.164(~~d~~)(2c)(4) that are included in that authorization; and

(ii) Except if prohibited by the Secretary under the reimbursement or cash monitoring payment method, hold on behalf of the student or parent any title IV, HEA program, funds that would otherwise be paid directly to the student or parent under §668.164(e). ~~Under this provision, the institution may issue a stored value card or other similar device that allows the student or parent to access those funds at his or her discretion to pay for educationally related expenses.f).~~

(2) In obtaining the student's or parent's authorization to perform an activity described in paragraph (b)(1) ~~of this section,~~ an institution—

(i) May not require or coerce the student or parent to provide that authorization;

(ii) Must allow the student or parent to cancel or modify that authorization at any time;

and

(iii) Must clearly explain how it will carry out that activity.

(3) A student or parent may authorize an institution to carry out the activities described in paragraph (b)(1) ~~of this section~~ for the period during which the student is enrolled at the institution.

(4)(i) If a student or parent modifies an authorization, the modification takes effect on the date the institution receives the modification notice.

(ii) If a student or parent cancels an authorization to use title IV, HEA program funds to pay for authorized charges under §668.164(~~d~~)(2c)(4), the institution may use title IV, HEA program funds to pay only those authorized charges incurred by the student before the institution received the notice.

(iii) If a student or parent cancels an authorization to hold title IV, HEA program funds under paragraph (b)(1) ~~(iii) of this section,~~ii), the institution must pay those funds directly to the

student or parent as soon as possible but no later than 14 days after the institution receives that notice.

(5) If an institution holds excess student funds under paragraph (b)(1)(~~iii~~) ~~of this section, i~~, the institution must—

(i) Identify the amount of funds the institution holds for each student or parent in a subsidiary ledger account designed for that purpose;

(ii) Maintain, at all times, cash in its bank account in an amount at least equal to the amount of funds the institution holds for the student; and

(iii) Notwithstanding any authorization obtained by the institution under this paragraph, pay any remaining balance on loan funds by the end of the loan period and any remaining other title IV, HEA program funds by the end of the last payment period in the award year for which they were awarded.

#### ~~§668.166—~~ **Excess cash.**

(a) ~~General.~~ ~~(1)~~ The Secretary considers excess cash to be any amount of title IV, HEA program funds, other than Federal Perkins Loan Program funds, that an institution does not disburse to students ~~or parents~~ by the end of the third business day following the date the institution—

(~~1~~) Received those funds from the Secretary; or

(~~2~~) Deposited or transferred to its Federal account previously disbursed title IV, HEA program funds ~~received from the Secretary~~, such as those resulting from award adjustments, recoveries, or cancellations.

~~(2) The provisions of this section do not apply to the title IV, HEA program funds that an institution receives from the Secretary under the just-in-time payment method.~~

(b) ~~Excess cash tolerance.~~ ~~s.~~ An institution may maintain for up to seven days an amount of excess cash that does not exceed one percent of the total amount of funds the institution drew down in the prior award year. The institution must return immediately to the Secretary any amount of excess cash over the one-percent tolerance and any amount of excess cash remaining in its account after the seven-day tolerance period.

(c) ~~Consequences for maintaining excess cash.~~ Upon a finding that an institution maintained excess excess cash for any amount or time ~~frame~~ over that allowed in the tolerance

provisions in paragraph (b) ~~of this section,~~ the actions the Secretary may take include, but are not limited to—

(1) Requiring the institution to reimburse the Secretary for the costs the ~~Secretary~~Federal government incurred in providing that excess cash to the institution; and

(2) Providing funds to the institution under the reimbursement payment method or heightened cash monitoring payment method described in §668.163~~(d)162(c)~~ and (ed), respectively.

~~§668.167—FFEL Program funds.~~

~~(a) Requesting FFEL Program funds. In certifying a loan application for a borrower under §682.603—~~

~~(1) An institution may not request a lender to provide it with loan funds by EFT or master check earlier than—~~

~~(i) Twenty-seven days after the first day of classes of the first payment period for a first-year, first-time Federal Stafford Loan Program borrower as defined in §682.604(e)(5); or~~

~~(ii) Thirteen days before the first day of classes for any subsequent payment period for a first-year, first-time Federal Stafford Loan Program borrower or for any payment period for all other Federal Stafford Loan Program borrowers; and~~

~~(2) An institution may not request a lender to provide it with loan funds by check requiring the endorsement of the borrower earlier than—~~

~~(i) The first day of classes of the first payment period for a first-year, first-time Federal Stafford Loan Program borrower as defined in §682.604(e)(5); or~~

~~(ii) Thirty days before the first day of classes for any subsequent payment period for a first-year, first-time Federal Stafford Loan Program borrower or for any payment period for all other Federal Stafford borrowers; and~~

~~(3)(i) An institution may not request a lender to provide it with loan funds by EFT or master check for any Federal PLUS Program loan earlier than 13 days before the first day of classes for any payment period.~~

~~(ii) An institution may not request a lender to provide with loan funds by check requiring the endorsement of the borrower for any Federal PLUS Program loan earlier than 30 days before the first day of classes for any payment period.~~

~~(b) *Returning funds to a lender.* (1) Except as provided in paragraph (c) of this section, an institution must return FFEL Program funds to a lender if the institution does not disburse those funds to a student or parent for a payment period within—~~

~~(i) Ten business days following the date the institution receives the funds if the lender provides those funds to the institution by EFT or master check on or after July 1, 1997 but before July 1, 1999;~~

~~(ii) Three business days following the date the institution receives the funds if the lender provides those funds to the institution by EFT and master check on or after July 1, 1999; or~~

~~(iii) Thirty days after the institution receives the funds if a lender provides those funds by a check payable to the borrower or copayable to the borrower and the institution.~~

~~(2) If the institution does not disburse the loan funds as specified in paragraph (b)(1) or (c) of this section, the institution must return those funds to the lender promptly but no later than 10 business days after the date the institution is required to disburse the funds.~~

~~(3) If an institution must return loan funds to the lender under paragraph (b)(2) of this section and the institution determines that the student is eligible to receive the loan funds, the school may disburse the funds to the student or parent rather than return them to the lender provided the funds are disbursed prior to the end of the applicable timeframe under paragraph (b)(2) of this section.~~

~~(c) *Delay in returning funds to a lender.* An institution may delay returning FFEL program funds to a lender for—~~

~~(1) Ten business days after the date set forth in paragraph (b)(1) of this section if—~~

~~(i)(A) The institution does not disburse FFEL Program funds to a borrower because the student did not complete the required number of clock or credit hours in a preceding payment period; and~~

~~(B) The institution expects the student to complete required hours within this 10-day period; or~~

~~(ii)(A) The student has not met all the FFEL Programs eligibility requirements; and~~

~~(B) The institution expects the student to meet those requirements within this 10-day period; or~~

~~(2) Thirty days after the date set forth in paragraph (b) of this section for funds a lender provides by EFT or master check if the Secretary places the institution on the reimbursement payment method under paragraph (d) or (e) of this section.~~

~~(d) An institution placed under the reimbursement payment method. (1) If the Secretary places an institution under the reimbursement payment method for the Federal Pell Grant, Direct Loan or campus-based programs, the institution—~~

~~(i) May not disburse FFEL Program funds to a borrower until the Secretary approves a request from the institution to make that disbursement for that borrower; and~~

~~(ii) If prohibited by the Secretary, may not certify a borrower's loan application until the Secretary approves a request from the institution to make that certification for that borrower.~~

~~(2) In order for the Secretary to approve a disbursement or certification request from the institution, the institution must submit documentation to the Secretary or entity approved by the Secretary that shows that each borrower included in that request whose loan has not been disbursed or certified is eligible to receive that disbursement or certification.~~

~~(3) Pending the Secretary's approval of a disbursement or certification request, the Secretary may—~~

~~(i) Prohibit the institution from endorsing a master check or obtaining a borrower's endorsement of any loan check the institution receives from a lender;~~

~~(ii) Require the institution to maintain loan funds that it receives from a lender via EFT in a separate bank account that meets the requirements under §668.163; and~~

~~(iii) Prohibit the institution from certifying a borrower's loan application.~~

~~(e) An institution participating solely in the FFEL Programs. If the FFEL Programs are the only title IV, HEA programs in which an institution participates and the Secretary determines that there is a need to monitor strictly the institution's participation in those programs, the Secretary may subject the institution to the conditions and limitations contained in paragraph (d) of this section.~~

~~(f) An institution placed under the cash monitoring payment method. The Secretary may require an institution that is placed under the cash monitoring described under paragraph §668.162(e), to comply with the disbursement and certification provisions under paragraph (d) of this section, except that the Secretary may modify the documentation requirements and review procedures used to approve the institution's disbursement or certification request.~~