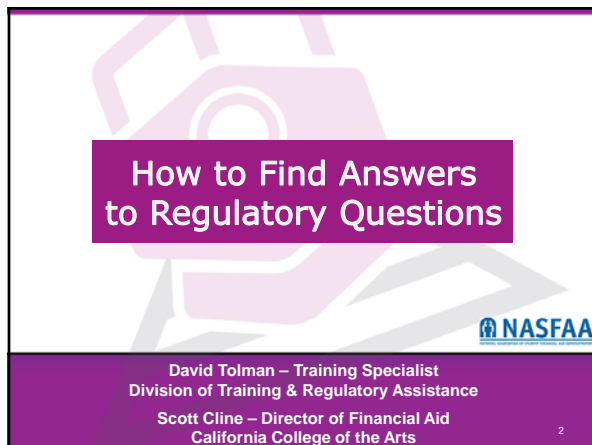
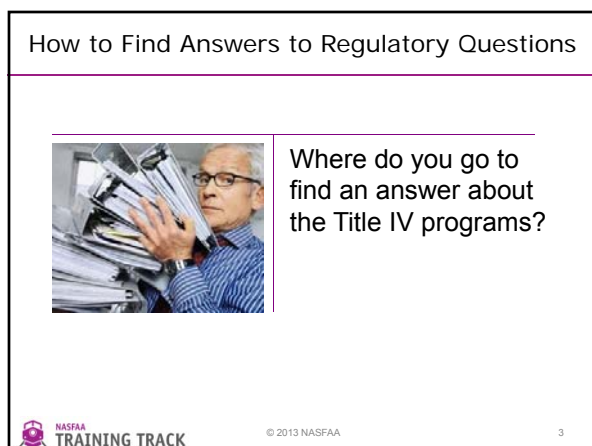




How to Find Answers to Regulatory Questions





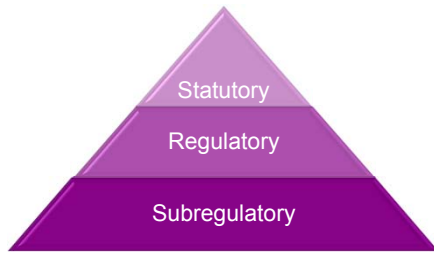






How to Find Answers to Regulatory Questions

Hierarchy of Resources



Statutory Resources

Laws creating and amending the Title IV programs

- Higher Education Act of 1965, as amended
- NASFAA maintains searchable compilation of Title IV legislation on its website under Members/Professional Practice Tools tabs
- The law supersedes regulations
- Federal law takes precedence over state law

Regulatory Resources

- Regulations
 - Govern actions of program participants
 - Provide procedural guidance in the management of the programs
 - Have the “force of law”
- Preambles to Notices of Proposed Rulemaking (NPRMs) and final rules





How to Find Answers to Regulatory Questions

Preambles to NPRMs and Final Rules

- Identify regulatory parts, programs affected, and action being taken
- Contain summary statement identifying
 - Purpose of the regulation
 - Broad topics covered
- Lists individual(s) and contact information for further information about the package



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Preamble to a NPRM

Contains background information about the proposed changes

- Applicable statutory and/or current regulatory references
- Description of what would change
- ED's reason(s) for making the change



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Preamble to a Final Rule

- Identifies date the regulations become effective
 - May have more than one effective date
 - May have implementation date that differs from the effective date
- Summarizes comments received and includes ED's responses to comments
 - If change made, notes and explains change made
 - If no change made, explains reason(s) ED did not make the change



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How to Find Answers to Regulatory Questions

Preamble to a Final Rule

Federal Register / Vol. 77, No. 212 / Thursday, November 1, 2012 / Rules and Regulations 66111

Leaving the IRR Plan (55,662,215-01) and 605,221,625-01)

Comments: Many commenters requested that the Department modify the IRR regulations to permit borrowers to exit the IRR plan without what the commenters believe is a prohibitive penalty. These commenters requested that borrowers not be required to repay their loans under the standard repayment plan when exiting the IRR plan or, if they are required to enter the standard plan, that borrowers not be required to make a payment under the standard repayment plan before being allowed to move to another repayment plan for which the borrower is eligible. Commenters asserted that requiring borrowers to exit the IRR plan and enter the standard repayment plan, or requiring such borrowers to make one payment under the standard plan before switching to another repayment plan for which the borrower is eligible, constitutes a prohibitive penalty because the borrower's payment amount under the standard repayment plan would be far higher than under the IRR plan or another repayment plan for which the borrower may be eligible.

Discussion: Section 408(b)(8)(B) of the HEA requires a borrower who leaves the IRR plan to repay the loans formerly repaid under the IRR plan under the standard repayment plan. The borrower also becomes subject to the maximum statutory repayment period under the standard plan with the time spent in the IRR plan counted against that statutory maximum repayment period. The Department has interpreted the statutory requirement that borrowers exiting the IRR plan must repay under the standard repayment plan to be satisfied if the borrower makes one full monthly payment under the standard plan before the borrower switches to another repayment plan. Because the time spent repaying in IRR counts against the statutory maximum repayment periods applicable to the other repayment plans, the outstanding balance of the loan at the time the borrower exits the IRR plan must be amortized over the remaining years available to the borrower under the standard plan to determine the standard plan payment amount. Any unpaid accrued interest the borrower may have is also capitalized when the borrower leaves the IRR plan. As a result, not being longer than one month, we agree that the forbearance period can be limited to the time associated with the one required monthly payment under the standard repayment plan. Finally, because the forbearance is granted while the borrower is repaying under the standard repayment plan, and not when the borrower is transferring to the standard repayment plan, there is no basis under the law for not capitalizing any unpaid accrued interest related to the forbearance period.

Changes: None.

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Online Compilations of Title IV Regulations

- Government Printing Office (GPO) Electronic Code of Regulations e-CFR at www.ecfr.gov
- NASFAA Compiled Title IV Regulations on NASFAA website under Members/Professional Practice Tools tabs

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NASFAA Compiled Title IV Regulations

Under the Members/Professional Practices tab on the NASFAA website

PART 600—INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED

Since published as a compilation through December 1994, the following amendments have been incorporated into part 600:

- Technical corrections of 4/20/96
- Technical corrections of 4/1/96
- Revised oversight amendments of 1/20/96
- Technical corrections of 1/20/96
- Reauthorization amendments of 1/20/96
- Streamlining revisions of 1/15/96
- Budget reduction revisions of 1/15/96
- Technical corrections and 1/15/96 amendments of 3/16/04
- NEPA amendments of 8/1/04
- NEPA amendments of 10/27/09
- NEPA amendments of 10/29/09
- Program integrity revisions of 10/29/09
- Program integrity, Gender Employment-New Programs revisions of 10/29/10
- Design Institutions of Higher Education Programs revisions of 10/29/10

Subject A—General:

- 600.1 Scope
- 600.2 Definitions (Reserved)
- 600.3 Institution of higher education
- 600.4 Prospective institution of higher education
- 600.5 Institutionally related institution
- 600.6 Conditions of institutional eligibility
- 600.7 Eligibility of a program
- 600.8 Eligibility of a campus
- 600.9 Research and research study in foreign

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How to Find Answers to Regulatory Questions

Parts of 34 CFR

- Part 86 Drug Free Schools and Campus
- Part 99 Family Education Rights and Privacy
- Part 600 Institutional Eligibility
- Part 601 Institution and Lender Requirements Relating to Education Loans
- Part 602 Secretary's Procedures and Criteria for Recognition of Accrediting Agencies
- Part 603 Secretary's Recognition Procedures for State Agencies



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Parts of 34 CFR

- Part 668 Student Assistance General Provisions
- Part 673 General Provisions for Federal Perkins Loan, Federal Work-Study and Federal Supplemental Educational Opportunity Grant Programs
- Part 674 Federal Perkins Loan Program
- Part 675 Federal Work-Study Program
- Part 676 Federal Supplemental Educational Opportunity Grant Program



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Parts of 34 CFR

- Part 682 Federal Family Education Loan Programs
- Part 685 William D. Ford Federal Direct Student Loan Program
- Part 686 Teacher Education Assistance for College and Higher Education (TEACH) Grant Program
- Part 690 Federal Pell Grant Program
- Part 694 Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP)



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How to Find Answers to Regulatory Questions

Subregulatory Resources

- Help decipher meaning of regulations
- Available on the Department of Education's (ED's) Information for Financial Aid Professionals (IFAP) website
- Major subregulatory resources are *FSA Handbook*, Dear Colleague Letters, Electronic Announcements, and other ED guides



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Subregulatory Resources

Includes ED guidance in areas that the law prohibits ED from regulating, such as:

- Part F of the HEA
 - Need analysis
 - Professional judgment authority



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IFAP Home Page



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Information Page on Subsidized Loan Limit



START HERE
FOR FIRST-TIME
FEDERAL STUDENT AID®

IFAP

100 Percent Direct Subsidized Loan Limit Information

 **Info:** In 2015, an additional 100 percent increase in the Federal Register, requiring that Direct Loans for Recipients of the Free College and Academic Persistence (FCAP) program be subject to the same 100 percent subsidized loan limit as other students. As a result, the 100 percent increase in the loan limit will increase the amount of the loan that a student can receive on the 100 percent subsidized loan limit. The amount of the loan that a student can receive on the 100 percent subsidized loan limit will increase from \$5,500 to \$11,000.

Please visit this page for information and updates on these Direct Subsidized loans.

External Resource: Direct Subsidized Loans

The Direct Subsidized loan is the preferred Federal
loan option and is available to students who are
eligible for aid.

[View](#)

How to Calculate Loan Limits and Understand Borrowing Limits

The Borrowing Limits are the maximum Federal
loan amount a student can borrow from the
Department of Education.

[View](#)

Timeline

Please see the Borrowing Timeline for more
information on how to borrow from the
Department of Education.


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Resources

Please visit this page for additional information on the
Direct loan.

[View](#)

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Hierarchy of Resources – 150% Subsidized Loan Limit

Statutory


HEA 455(f),(q)

Regulatory

685.200(a), (f)
Federal Register, 5/16/13:
Interim Final Rules

Sub-regulatory

GEN-13-13
ED Trainings
Electronic Announcements
2014 –15 COD Technical Reference
NSLDS Record Layouts

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[illegible]

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How to Find Answers to Regulatory Questions

Recent Dear Colleague Letter Topics

- GEN-13-22: FY 2014 Sequestration Changes to the Title IV Student Aid Programs (Updated October 25, 2013)
- GEN-13-20: State Authorization Regulations – Documentation of “other action,” State recognition of educational programs beyond secondary education, State’s “active role” in approving or licensing institutions, and alternative State approval or licensure process



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Recent Dear Colleague Letter Topics

- ANN-13-18: Training Resource - 90/10 Regulation and Calculation Presentation Materials
- GEN-13-18: Extended Foster Care Payments
- GEN-13-17: Requirement for Distribution of Voter Registration Forms
- GEN-13-16: 2014–15 Award Year: FAFSA Information to be Verified and Acceptable Documentation



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Recent Electronic Announcement Topics

- 11/26/2013: Additional COD System Implementation for 2013-2014 Award Year
- 11/25/2013: 150% Direct Subsidized Loan Limit: Electronic Announcement #6 - Availability of New NSLDS Enrollment Reporting File Layouts
- 11/22/2013: FISAP Edit Corrections and Perkins Cash on Hand Update Due December 13, 2013
- 11/22/2013: Gainful Employment Electronic Announcement #46 - Release of the Disclosure Template for Gainful Employment (GE) Programs



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How to Find Answers to Regulatory Questions

ED Program Integrity Questions and Answers

<http://www2.ed.gov/policy/highered/reg/hearulemaking/2009/integrity.html>

ED.gov U.S. Department of Education

Program Integrity Information - Questions and Answers

In order to ensure questions coming into the Department of Education about the Program Integrity Regulations are consolidated and easily accessible to interested parties, we have created this web site containing questions and answers. We will update this list on a regular basis. Please be sure to check back for any new information. You will also find links to various resources with additional guidance pertaining to the Program Integrity issues.

- State Authorization
- Retaking Courses
- Credit Hour
- Ability-to-Benefit
- Incentive Compensation
- Misrepresentation
- Return of Title IV Funds
- Satisfactory Academic Progress
- Gainful Employment
- Verification

Program Integrity Home | Regulated Rulemaking 2009-10 | OPE Policy Page

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Confirm Email:

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Please go to Account Details now if you do not have a current e-mail address. After your e-mail address has been updated, you may continue with the subscription process.

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<input type="checkbox"/> Closed School Guide	<input type="checkbox"/> FFSAP Technical Reference
<input type="checkbox"/> COD Computer-Based Training	<input type="checkbox"/> Foreign School Updates
<input type="checkbox"/> COD Technical Reference	<input type="checkbox"/> Foreign Schools FSA Handbook
<input type="checkbox"/> COD XML Schema	<input type="checkbox"/> FSA New School Guide
<input type="checkbox"/> Cohort Default Rate Guide for Lenders and Guaranty Agencies	<input type="checkbox"/> Gainful Employment Information
<input type="checkbox"/> Conferences and Presentations	<input type="checkbox"/> Gainful Employment Operations Manual
<input type="checkbox"/> Counselors and Monitor Handbook	<input type="checkbox"/> SIR Guide
<input type="checkbox"/> CPS Test System User Guide	<input type="checkbox"/> NGLS Reference Materials
<input type="checkbox"/> Default Prevention Resource Information	<input type="checkbox"/> Perkins Cohort Default Rate Guide
<input type="checkbox"/> Default Rate Materials	<input type="checkbox"/> Podcast
<input type="checkbox"/> ED Express Technical Reference	<input type="checkbox"/> Program Review Guide
<input type="checkbox"/> EFC Formula Guide	<input type="checkbox"/> SAR Comment Codes and Text
<input type="checkbox"/> Ensuring Continued Access to Student Loans (ECASLA)	<input type="checkbox"/> School Electronic Process Guide
<input type="checkbox"/> FAFSA Materials	<input type="checkbox"/> Student Aid Eligibility Worksheets
<input type="checkbox"/> Federal Register	<input type="checkbox"/> Student Web Application Products Process Guide
<input type="checkbox"/> Federal School Code List	<input type="checkbox"/> Summary of Changes for the Application Processing System
<input type="checkbox"/> Federal Student Aid Handbook	<input type="checkbox"/> Verification Worksheets



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<input type="checkbox"/> Academic Competitiveness Grant (ACG) Program	<input type="checkbox"/> Gainful Employment
<input type="checkbox"/> All Title IV Federal Student Aid Programs	<input type="checkbox"/> Getting Early Awareness and Readiness for Undergraduate Programs (GEAR UP)
<input type="checkbox"/> Application Processing	<input type="checkbox"/> General
<input type="checkbox"/> Audit and Program Reviews	<input type="checkbox"/> Grant and Direct Loan (GDL) Processing
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<input type="checkbox"/> Campus-Based Processing	<input type="checkbox"/> Law and a Graduate Service Grant Program
<input type="checkbox"/> Central Processing System (CPS)	<input type="checkbox"/> Leveraging Educational Assistance Partnership (LEAP) Program
<input type="checkbox"/> Common Origination and Disbursement (COD)	<input type="checkbox"/> Licensure and Regulation
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<input type="checkbox"/> Direct Loan Lending	<input type="checkbox"/> Overpayments, Overpayments, and Unlawful Disbursement
<input type="checkbox"/> Default Prevention and Management	<input type="checkbox"/> Overview of TV
<input type="checkbox"/> EDExpress (EDS, NDS, SSCS)	<input type="checkbox"/> Perkins Processing
<input type="checkbox"/> Expanded Family Contribution	<input type="checkbox"/> Professional Judgment
<input type="checkbox"/> Federal Direct Loan (FFDL) Program	<input type="checkbox"/> Quality Assurance Program
<input type="checkbox"/> Federal Family Education Loan (FFEL) Program	<input type="checkbox"/> Request Reporting
<input type="checkbox"/> Federal Perkins Loan (FFPL) Program	<input type="checkbox"/> Request C, Return to Service Scholarship (RST) Scholarship Program
<input type="checkbox"/> Federal Supplemental Educational Opportunity Grant (FSEOG) Processing	<input type="checkbox"/> School Eligibility and Application
<input type="checkbox"/> Federal Supplemental Educational Opportunity Grant (FSEOG) Program	<input type="checkbox"/> Special Learning Educational Assistance Partnership (SLEAP) Program
<input type="checkbox"/> Federal Work Study (FFWS) Program	<input type="checkbox"/> Student/Parent Eligibility
<input type="checkbox"/> FFEL - Lender and Guaranty Agency	<input type="checkbox"/> Student and Parent Information (SAP)
<input type="checkbox"/> FFEL - School	<input type="checkbox"/> Student Aid Report (SAR)
<input type="checkbox"/> Financial Management/Compliance Audit	<input type="checkbox"/> Teacher Education Assistance for College and Higher Education (TEACH) Grant Program
<input type="checkbox"/> Foreign Schools	<input type="checkbox"/> Training
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AskRegs Knowledgebase

NASFAA **ASKREGS**

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Most Popular Topics

Can an Undergraduate Student's Salary	1761
Attending Graduate School for Recipients of the	
Award in College for Verification	
Can We Award a Direct Loan for the State	1369
Academic Year if a Student Requests SAP Eligibility	
Will Direct	
Do We Use Form W-2 Box 1 or Box 5 to Verify 1227	
Wages?	
Can a Student Receive Aid for Repayment	1213
Concurrent Multiple Times with W and F Grants?	
Does a School Have to Include Loan Fees in	1218
the Cost of Attendance (COA)?	

Most Recent Topics

Is a Student Eligible for Title IV Aid if	8/18/2013
the Student Drops Out of School for the Year Work the	
State College?	
Is There Regulatory Relief for Schools	8/14/2013
Impacted by Natural Disaster?	
How do We Treat Loans "Not Paid" Over	8/13/2013
Enrollment As it Relates to the 150% Subsidized	
Loan Limit Rule?	
How do We Treat a Pell Loan When a	8/13/2013
Student Withdraws from School But Not All Courses	
Are They Discontinued?	
Is a Student Eligible for a Grant if He	8/13/2013
Receives a High School Diploma or GED During a	
Term?	



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How to Find Answers to Regulatory Questions

Hints to Remember in Researching

- Check the current *FSA Handbook*. Search through the Table of Contents for a key term
- On IFAP, do a search by topic, such as "Satisfactory Academic Progress". You will find information from all sources, including prior presentations from trainers at the Department
- Look at regulations referenced by the Handbook. These are the "legal" documents that support the Handbook
- Review preambles to proposed and final regulations
- Search AskRegs



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Sample Questions



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Sample Question #1

Can a school award Federal Supplemental Education Opportunity Grant (FSEOG) funds for both the fall and spring semesters to a Federal Pell Grant eligible student who reaches his lifetime eligibility used (LEU) after receiving a Federal Pell Grant payment during the fall semester?

ANSWER: Yes, the fact that the student is receiving a Federal Pell Grant during the fall semester places him in the first selection group when awarding FSEOG, and he may be awarded FSEOG for both the fall and spring semesters.



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How to Find Answers to Regulatory Questions

Justification – From *FSA Handbook*

Selecting FSEOG prohibitions
A school would not be in compliance with the Higher Education Act, as amended, and with the FSEOG regulations were it to award FSEOG on a first-come, first-served basis or were it to arbitrarily not expect (1) to make awards to students who are eligible to receive FSEOG recipients. Such a practice might include otherwise eligible students from the selective process. Furthermore, an institution's judgment is not an appropriate means of attempting to make the indicated award; professional judgment is applicable only to making an adjustment or adjustment to a date of award and in the calculation of the EFC, or in the USA, not as a means to disburse the FSEOG selection policy.

FSEOG sites
Section 676.10 (FSEOG.10)
Frequency of disbursements 34 CFR 676.10(a) and (e)
Minimum and maximum awards 34 CFR 676.20

2013–14 FSA Handbook
p. 3-124

Selecting FSEOG recipients
When awarding FSEOG funds for an award year, you must first select students with the lowest expected family contributions (EFC) who will also receive Pell Grants in that award year. This group is known as the FSEOG first selection group. A student who will receive a Pell Grant in the award year is a student who has demonstrated Pell Grant eligibility for the same award year based upon an EFC that you have calculated for the student or the EFC on the student's valid SAR or ISIR.

A student who receives a Pell Grant at any time in the award year may be awarded an FSEOG for that award year; the student does not have to receive a Pell Grant in the same payment period as the FSEOG. For example, in the case of a student who receives a Pell Grant for the fall semester only due to reaching his lifetime eligibility used (LEU), the student may be awarded an FSEOG for both the fall semester and subsequent winter semester.

If you have remaining FSEOG funds after making awards to all Pell Grant recipients for that award year, you must next select students with the lowest EFCs who are not receiving Pell Grants. This group of students is known as the FSEOG second selection group. This group also includes students who have exceeded their LEU. LEU is covered fully in Chapter 3 of this volume.

You must keep documentation of the eligible EFC that was calculated for the student, and you must confirm Pell Grant eligibility prior to disbursement of the FSEOG. If the FSEOG recipient does not actually receive a Pell Grant during the award year, but the documentation shows that the FSEOG award and disbursement was made in good faith, you are not required to recover the FSEOG funds. If the student loses Pell Grant eligibility prior to disbursement of the FSEOG, you must cancel the FSEOG award.

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Justification – From Compiled Regulations

PART 676—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM
Sec. 676.10 Selection of students for FSEOG awards.

(a)(1) In selecting among eligible students for FSEOG awards in each award year, an institution shall select those students with the lowest expected family contributions who will also receive Federal Pell Grants in that year.

(2) If the institution has FSEOG funds remaining after giving FSEOG awards to all the Federal Pell Grant recipients at the institution, the institution shall award the remaining FSEOG funds to those eligible students with the lowest expected family contributions who will not receive Federal Pell Grants.

(3) Part-time and independent students. If an institution's allocation of FSEOG funds is directly or indirectly based in part on the financial need demonstrated by students attending the institution as less-than-full-time or independent students, a reasonable portion of the allocation must be offered to those students.

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Justification – From Compiled Legislation

§ 1077b-1. Purpose.
Appropriations authorized [42 USC § 4132].

§ 1077b-2. Amount and duration of grants. [42 USC § 4133].

§ 1077b-3. Agreement with institution; selection of recipients. [42 USC § 4132].

§ 1077b-4. Disbursement of funds. [42 USC § 4132].

§ 1077b-5. Extension and carryover authority. [42 USC § 4132].

(c) **Selection of individuals and determination of amount of awards**

(1) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 1094 of this title, and within the amount allocated to the institution for that purpose for that year under section 1077b-3 of this title, select individuals who are to be awarded such grants and determine, in accordance with section 1077b-1 of this title, the amounts to be paid to them.

(2)(A) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 1094 of this title, assure that the selection procedure—

(i) will be designed to award supplemental grants under this subpart, first, to students with exceptional need; and

(ii) will give a priority for supplemental grants under this subpart to students who receive Pell Grants, and meet the requirements of section 1091 of this title.

(B) For the purpose of subparagraph (A), the term "students with exceptional need" means students with the lowest expected family contributions at the institution.

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How to Find Answers to Regulatory Questions

Sample Question #2

A dependent student was selected for verification for 2013–2014. His parents received an extension from the IRS to file their 2012 federal income tax return. Must the school reverify the student's application after his parents file their 2012 return?

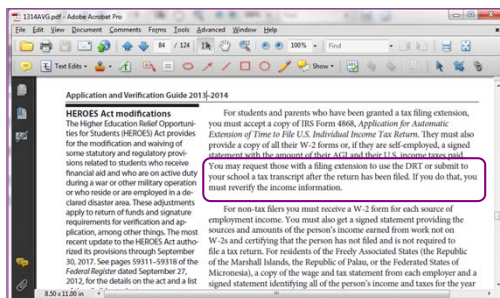
ANSWER: The school may, but is not required to, request that the parents submit tax return information using the IRS Data Retrieval Tool or by submitting an IRS Tax Transcript after they file their 2012 return. If, after the return is filed, the school receives either an ISIR showing tax information obtained using the IRS Data Retrieval Tool or the parents' IRS Tax Transcript, the school must reverify the student's application.



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Justification – From *FSA Handbook*



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Justification – Program Integrity Q & A



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How to Find Answers to Regulatory Questions

Justification – Program Integrity Q & A



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Sample Question #3

Suppose a student completes a bachelor's degree and enrolls in a second bachelor's degree program. If coursework completed for the first program also counts toward the second program, how does the school apply the 150% maximum time frame for determining satisfactory academic progress?

ANSWER: The 150% maximum time frame applies to the student's current program of study, and the school has the flexibility in determining how previously taken coursework applies to the student's current program of study.

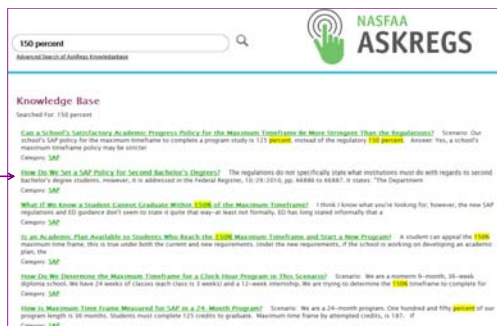


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Justification – AskRegs Knowledgebase



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How to Find Answers to Regulatory Questions

Justification – AskRegs Knowledgebase

Justification – Final Rules

Sample Question #4

May a school's satisfactory academic progress policy include automatic "academic amnesty" in certain circumstances? For example, after the student has not attended a certain number of payment periods or years?

ANSWER: No. The regulations permit use of the automatic financial aid warning status for institutions that review SAP at the end of each payment period. No other status may be granted automatically. A successful appeal is needed to grant financial aid probation status or to develop an academic plan.





How to Find Answers to Regulatory Questions

Justification – FSA Handbook

Volume 1—Student Eligibility 2013-14

Grades and SAP: Academic amnesty/renewal

Some schools have academic amnesty/renewal procedures through which a student can apply to have credits attempted and grades earned in previous semesters excluded from the calculation of the student's grade point average. The FSA program regulations make no provision for the concept of academic amnesty or academic renewal. Therefore, a school must always include courses applicable to a student's major behavior in evaluating a student's satisfactory academic progress (both quantitative and qualitative components). This may, however, be an item that is subject to appeal if the school's policy permits such appeals.

Completed program, no degree

A student who completes the academic requirements for a program but does not yet have the degree or certificate is not eligible for further additional FSA funds for that program.

the total number he has attempted. You may include, but aren't required to include, renewal courses when making the quantitative assessment.

Checking a student's pace of completion allows for variations of enrollment status since you look at the percentage of classes successfully completed rather than the number. Also, you can use a graduated completion percentage for each year of a program. For instance, your policy can permit students to complete a lower percentage of their classes in the first academic year but require them to complete an increasing percentage in subsequent years so that they finish their program in time. A student is ineligible when it becomes mathematically impossible for him to complete his program within 150% of the length of the program. In this situation, an appeal would be possible if your school accepts appeals.

Your policy must explain how GPA and pace of completion are affected by course incompletes, withdrawals, and repetitions, and by transfer credits from other schools. At a minimum, transfer credits that count toward the student's current program must count as both attempted and completed hours. You may have reasonable rules for students who initially enroll in specific courses but modify that enrollment within a limited time. However, your policy cannot exclude from the program review courses in which a student remained past the add/drop period and earned a grade of "W" (or its equivalent), nor can it routinely exclude certain hours attempted, such as those taken during a summer session.

Generally, all periods of the student's enrollment count when assessing progress, even periods in which the student did not receive FSA funds. However, your policy may permit that for students who change majors, credits

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Justification – Program Integrity Q & A

APP-Q3: Can a student appeal the 150% maximum timeframe?

APP-A3: Yes. The regulations do not prohibit a student from appealing the maximum timeframe. [Guidance issued 8/26/2011]

APP-Q4: May an institution's SAP policy include automatic "academic amnesty" in certain circumstances, such as, after a student has not attended for a certain number of payment periods or years?

APP-A4: No. The regulations permit use of the automatic financial aid warning status for institutions that review SAP at each payment period. No other status may be granted automatically. A successful appeal is needed to grant financial aid probation status or to develop an academic plan. [Guidance issued 8/26/2011]

Is

Financial Aid Warning (WARN)

WARN-Q1: How long is the financial aid warning period?

WARN-A1: Financial aid warning lasts for one payment period only and does not require action (such as an appeal) by the student. This option may only be used by an institution that reviews both SAP measures at every payment period. [Guidance issued 8/26/2011]

WARN-Q2: Is there a limit to the number of financial aid warnings a student can receive during his or her enrollment?



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Questions?

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receive the same treatment as Direct Loan borrowers. In the Direct Loan program, the Secretary will grant a reduced-payment forbearance to borrowers in this circumstance. These commenters also requested that the Department set a ceiling on the payment amount required under the reduced-payment forbearance agreement, require that interest accruing during such a forbearance period not be capitalized, and clarify that the reduced-payment forbearance period may be as short as the time needed for a borrower to make one reduced payment.

Several commenters also requested that the Department clarify that the reduced-payment forbearance granted to such borrowers could result in a payment of any amount greater than \$0.

Discussion: Section 493C(b)(8) of the HEA requires a borrower who leaves the IBR plan to repay the loans formerly repaid under the IBR plan under the standard repayment plan. The borrower also becomes subject to the maximum statutory repayment period under the standard plan with the time spent in the IBR plan counted against that statutory maximum repayment period. The Department has interpreted the statutory requirement that borrowers exiting the IBR plan must repay under the standard repayment plan to be satisfied if the borrower makes one full monthly payment under the standard plan before the borrower switches to another repayment plan. Because the time spent repaying in IBR counts against the statutory maximum repayment periods applicable to the other repayment plans, the outstanding balance of the loan at the time the borrower exits the IBR plan must be amortized over the remaining years available to the borrower under the standard plan to determine the standard plan payment amount. Any unpaid accrued interest the borrower may have is also capitalized when the borrower leaves the IBR plan. As a result, the resulting payment calculated for the borrower under the standard repayment plan may be quite large. Other borrowers whose time repaying under IBR already exceeds the maximum repayment periods available under other repayment plans may not be able to leave the IBR plan, which provides for a longer repayment period.

During negotiated rulemaking, the Department acknowledged that borrowers exiting IBR may be required to make a large payment under the standard plan before requesting to move to another repayment plan. As a result, the proposed IBR regulations permit the borrower to make a lesser payment under a reduced-payment forbearance agreement to satisfy the one-payment

requirement under the standard repayment plan.

With regard to the commenters' request that the Department require FFEL loan holders to grant a reduced-payment forbearance to borrowers exiting IBR, section 428(c)(3)(A) of the HEA requires loan holders to grant forbearances in limited circumstances specified in the HEA. Otherwise, section 428(c)(3)(B) of the HEA states that lenders may grant forbearance for the benefit of the borrower as permitted under regulations of the Secretary. Under the proposed regulations, FFEL holders are authorized to grant reduced-payment forbearances to borrowers in these circumstances and we strongly recommend and expect that they will do so. However, we do not believe that under the HEA we can mandate that FFEL holders grant forbearances in these circumstances.

With regard to the comments that sought clarification on the payment amount required under the reduced-payment forbearance for such a borrower, the amount of any reduced-payment forbearance is a matter negotiated between the borrower and the loan holder. The Department believes that for these borrowers it can be any amount that is greater than \$0 and less than the borrower's scheduled monthly payment under the standard repayment plan. For example, one approach to determining the reduced payment amount in this circumstance would be to require the borrower to pay the scheduled monthly payment amount the borrower would pay under the repayment plan the borrower seeks to pay under after leaving the standard repayment plan. If the borrower is eligible for and wants to enter the extended repayment plan, the reduced-payment forbearance amount could be set at the amount the borrower would otherwise be required to pay under the extended repayment plan.

With regard to the commenters' request for clarification that the reduced-payment forbearance period need not be longer than one month, we agree that the forbearance period can be limited to the time associated with the one required monthly payment under the standard repayment plan. Finally, because the forbearance is granted while the borrower is repaying under the standard repayment plan, and not when the borrower is transferring to the standard repayment plan, there is no basis under the for not capitalizing any unpaid accrued interest related to the forbearance period.

Changes: None.

Leaving the IBR Plan (§§ 682.215(d)(3) and 685.221(d)(2)(ii))

Comments: Many commenters requested that the Department modify the IBR regulations to permit borrowers to exit the IBR plan without what the commenters believe is a prohibitive penalty. These commenters requested that borrowers not be required to repay their loans under the standard repayment plan when exiting the IBR plan or, if they are required to enter the standard plan, that borrowers not be required to make a payment under the standard repayment plan before being allowed to move to another repayment plan for which the borrower is eligible. Commenters asserted that requiring borrowers to exit the IBR plan and enter the standard repayment plan, or requiring such borrowers to make one payment under the standard plan before switching to another repayment plan for which the borrower is eligible, constitutes a prohibitive penalty because the borrower's payment amount under the standard repayment plan would be far higher than under the IBR plan or another repayment plan for which the borrower may be eligible.

These same commenters also requested that the FFEL regulations be revised to require FFEL holders to grant a reduced-payment forbearance to borrowers who exit the IBR plan if the borrower is unable to make the scheduled monthly payment under the standard repayment plan. The commenters requested this revision to ensure that FFEL borrowers would

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Structure of Regulations and *FSA Handbook*

Parts of 34 CFR

Part 86 Drug Free Schools and Campus

Part 99 Family Education Rights and Privacy

Part 600 Institutional Eligibility

Part 601 Institution and Lender Requirements Relating to Education Loans

Part 602 Secretary's Procedures and Criteria for Recognition of Accrediting Agencies

Part 603 Secretary's Recognition Procedures for State Agencies

Part 668 Student Assistance General Provisions

Part 673 General Provisions for Federal Perkins Loan, Federal Work-Study and Federal Supplemental Educational Opportunity Grant Programs

Part 674 Federal Perkins Loan Program

Part 675 Federal Work-Study Program

Part 676 Federal Supplemental Educational Opportunity Grant Program

Part 682 Federal Family Education Loan Programs

Part 685 William D. Ford Federal Direct Student Loan Program

Part 686 Teacher Education Assistance for College and Higher Education (TEACH) Grant Program

Part 690 Federal Pell Grant Program

Part 694 Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP)



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