



# How to Find Answers to Regulatory Questions



The following is a presentation prepared for:  
 RNASFAA Conference  
 Cheyenne, WY  
 October 20 – 23, 2013

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**How to Find Answers to Regulatory Questions**

David Tolman – Training Specialist  
 Division of Training & Regulatory Assistance  
 Myrna Perkins – Director of Financial Aid  
 Barton Community College

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How to Find Answers to Regulatory Questions



Where do you go to find an answer about the Title IV programs?

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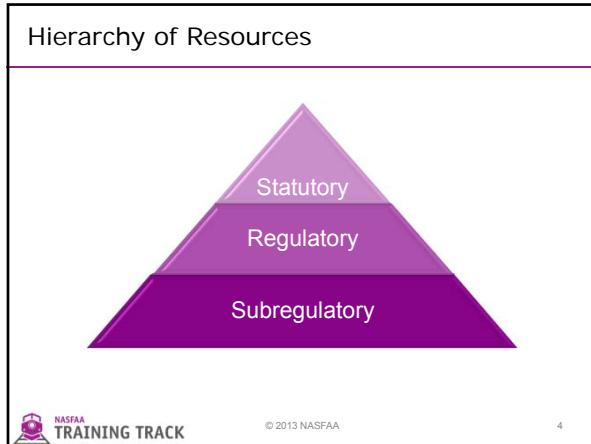
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# How to Find Answers to Regulatory Questions




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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

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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

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# 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

## 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

www.ifap.ed.gov



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# How to Find Answers to Regulatory Questions

## ED Publications on IFAP

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## Recent Dear Colleague Letter Topics

- GEN-13-21: Invitation to Participate in the Experimental Sites Initiative
- 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
- GEN-13-18: Extended Foster Care Payments

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## Recent Dear Colleague Letter Topics

- 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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# How to Find Answers to Regulatory Questions

## Recent Electronic Announcement Topics

- 09/23/2013: FY 2010 3-Year Official Cohort Default Rates Distributed September 23, 2013
- 09/19/2013: 2014–15 Expected Family Contribution (EFC) Formula Guide
- 09/16/2013: FY 2010 2-Year Official Cohort Default Rates Distributed September 16, 2013
- 09/13/2013: Introducing Reach FSA – a simplified way for the financial aid community to access Federal Student Aid (FSA) School Contact Centers



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## ED Program Integrity Questions and Answers

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

The screenshot shows the ED.gov website with a search bar at the top. The main content area is titled 'Program Integrity Information - Questions and Answers'. It includes a list of topics such as State Authorization, Retaining Competency, Credit Hour, Ability-to-Benefit, Incentive Compensation, Misrepresentation, Return of Title IV Funds, Satisfactory Academic Progress, and Graduation Employment. There is also a 'New Do I Find...' section with links to Student Loans, FERPA, and other topics.



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## Subscribe to IFAP – Register for My IFAP

[https://www.ifap.ed.gov/ifap/newuserreg\\_01.jsp](https://www.ifap.ed.gov/ifap/newuserreg_01.jsp)

The screenshot shows the IFAP website's registration page. It includes a search bar and a navigation menu. The main content area is titled 'My IFAP - New User Registration'. It contains a form with fields for First Name, Last Name, Email, and Username. There are also checkboxes for 'I am a "Citizen" please specify' and 'I would like to participate in discussion groups with users of similar interests'. A 'Read the Terms of Service' link is also visible.



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# How to Find Answers to Regulatory Questions

Subscribe to IFAP Emails

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# How to Find Answers to Regulatory Questions

AskRegs Knowledgebase

**NASFAA** HOME ONLINE SUPPORT REQUEST SUPPORT MY SUPPORT

Search the AskRegs Knowledgebase

Most Popular Topics

- Can an undergraduate student's Satisfactory Academic Progress (SAP) be reinstated on the condition of college fee reimbursement? 1767
- Can We Award a Direct Loan for the Entire Academic Year if a Student Begins SAP Eligibility Mid-Year? 1349
- Do We Use Form W-2 Box 9 or Box 9 to Verify Repeat? 1217
- Can a Student Receive Aid for Repeat? 1213
- Can We Award Multiple Loans with W and F Grants? 1210
- Does a School Have to Include Loan Fees in the Cost of Attendance (COA)? 1210

Most Recent Topics

- Is a Graduate Eligible for Loans for Aid #1? 9-18-2013
- Can We Award High School for Same Month of Study Change? 9-18-2013
- Is There Regulatory Relief for Schools Impacted by Natural Disasters? 9-18-2013
- How Do We Treat Loans from High School Graduates as it Relates to the 15% Subsidized Loan Limit? 9-18-2013
- How Do We Treat a Post-Loan When a Student Withdraws from School But Has All Courses? 9-18-2013
- How Do We Treat a Post-Loan When a Student Withdraws from School But Has All Courses? 9-18-2013
- Is a Graduate Eligible for Loans for Aid #1? 9-18-2013
- Can We Award High School for Same Month of Study Change? 9-18-2013

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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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# How to Find Answers to Regulatory Questions

## 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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## Justification – From FSA Handbook

### Selecting FSEOG prohibitions

A school must 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 request FSEOG awards from below which it equal with FSEOG recipients. Such practice might include otherwise eligible students from the selection group.

### 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.

### FSEOG sites

Section Procedure 31.01(2)(3)(7)  
Frequency of disbursements: 31.01(2)(3)(8) and (9)  
Minimum and maximum awards: 34.01(2)(2)

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.

2013–14 FSA Handbook  
p. 3-124



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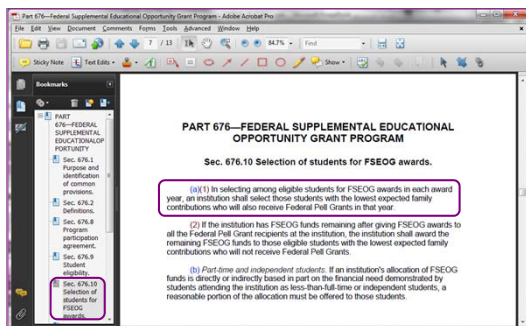
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## Justification – From Compiled Regulations



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# How to Find Answers to Regulatory Questions

## Justification – From Compiled Legislation

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10700-3. Amount and amount of grants (2EA & 4130)

10700-2. Agreements with institutions selection of recipients (2EA & 4130)

10700-1. Selection of funds (2EA & 4130)

10700-4. Carryover and certified authority (2EA & 4130)

(2) makes application of a time and in a manner consistent with the requirements of the Secretary and that institution.

(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 10700-3 of this title, select individuals who are to be awarded such grants and determine, in accordance with section 10700-1 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 support, first, to students with exceptional need; and

(ii) will give a priority for supplemental grants under this support 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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## 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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Application and Verification Guide 2013-2014

**HEROES Act modifications**

The Higher Education Relief Opportunities for Students (HEROES) Act provides for the modification and waiving of some statutory and regulatory provisions related to students who receive financial aid and who are on active duty during a war or other military operation or who reside or are employed in a declared disaster area. These adjustments apply to return of funds and signature requirements for verification and application, among other things. The most recent update to the HEROES Act authorized its provisions through September 30, 2017. See pages 59311-59318 of the Federal Register dated September 27, 2012, for the details on the act and a list

For students and parents who have been granted a tax filing extension, you must accept a copy of IRS Form 4868, *Application for Automatic Extension of Time to File U.S. Individual Income Tax Return*. They must also provide a copy of all their W-2 forms or, if they are self-employed, a signed statement with the amount of their AGI and their U.S. income taxes paid.

You may request those with a filing extension to use the DRT or submit to your school a tax transcript after the return has been filed. If you do that, you must reverify the income information.

For non-tax filers you must receive a W-2 form for each source of employment income. You must also get a signed statement providing the sources and amounts of the person's income earned from work not on W-2s and certifying that the person has not filed and is not required to file a tax return. For residents of the Freely Associated States (the Republic of the Marshall Islands, the Republic of Palau, or the Federated States of Micronesia), a copy of the wage and tax statement from each employer and a signed statement identifying all of the person's income and taxes for the year

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# How to Find Answers to Regulatory Questions

## Justification – Program Integrity Q & A



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## 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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# How to Find Answers to Regulatory Questions

## 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.

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## Justification – FSA Handbook

**Volume 1 – Student Eligibility 2013-14**

**Grades and SAP: Academic amnesty/merit**  
Some schools have academic amnesty/merit procedures through which a student can apply to have credits attemped 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 merit. Therefore, a school must always include courses applicable to a student's major (reference taken 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, remedial courses when making the quantitative assessment.

Checking a student's pace of completion allows for variations of credit earned 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 on time. A student is ineligible when it becomes mathematically impossible for him to complete his program within 100% 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 readily that enrollment within a limited time. However, your policy cannot exclude from the progress 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

2013-2014  
FSA Handbook,  
p.1-10

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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]

**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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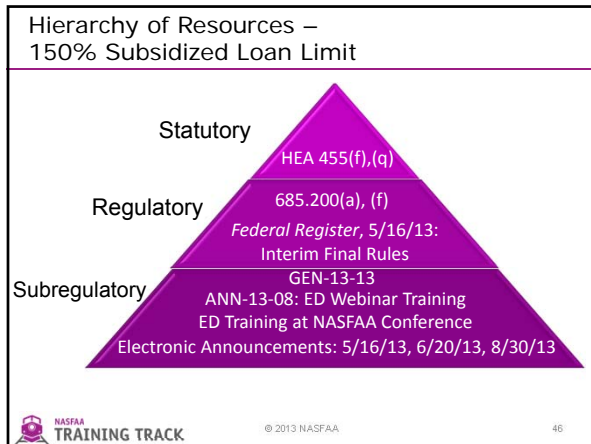
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# How to Find Answers to Regulatory Questions



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**Questions?**  
Please send your questions to:  
[tolmand@nasfaa.org](mailto:tolmand@nasfaa.org)

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# **Structure of Regulations and *FSA Handbook***

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## **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

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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)



## ***FSA Handbook Volumes***

### Application and Verification Guide

- Completing the FAFSA
- Calculating an Expected Family Contribution (EFC)
- Verification, Updates, and Corrections
- Professional Judgment and Other Special Cases

### Volume 1 – Student Eligibility

- Eligibility Criteria Checked and Monitored by the School
- Eligibility Criteria Checked During the Application Process
- Eligibility Criteria Unique to Each Title IV Program

### Volume 2 – School Eligibility and Operations

- Institutional Eligibility and Administration of Title IV Aid Programs
- Consumer Information
- Maintaining Records

### Volume 3 – Calculating Awards and Packaging

- Academic Year, Calendar, and Payment Period Concepts
- Cost of Attendance
- Awarding Criteria for Each Title IV Program

### Volume 4 – Processing Aid and Managing Federal Student Aid Funds

- Cash Management
- Disbursing Title IV Funds
- Overawards and Overpayments

### Volume 5 – Withdrawals and the Return of Title IV Funds

- Return of Title IV Funds
- Case Studies

### Volume 6 – Managing Campus-Based Programs

- General Program Requirements
- Program-Specific Requirements



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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