

§ 668.164

34 CFR Ch. VI (7–1–10 Edition)

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.

(Authority: 20 U.S.C. 1070g, 1091, 1094)

[61 FR 60603, Nov. 29, 1996, as amended at 71 FR 38003, July 3, 2006; 73 FR 35494, June 23, 2008]

§ 668.164 Disbursing funds.

(a) *Disbursement.* (1) Except as provided in paragraph (a)(2) of this section, an institution makes a disbursement of title IV, HEA program funds on the date that the institution credits a student's account at the institution or pays a student or parent directly with—

(i) Funds received from the Secretary;

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

(iii) 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 a student subject to the requirements of § 682.604(c)(5) or § 685.303(b)(4) earlier than 30 days after the first day of the payment period, an institution credits a student's institutional account with institutional funds in advance of receiving title IV, HEA

program funds, 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(c)(5) or § 685.303(b)(4).

(b) *Disbursements by payment period.* (1) Except as provided in paragraph (b)(2) of this section, an institution must disburse title IV, HEA program funds on a payment period basis. An institution must disburse title IV, HEA program funds once each payment period unless—

(i) For FFEL and Direct Loan funds, 34 CFR 682.604(c)(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) Except as provided in paragraph (g) of this section, an institution may disburse title IV, HEA program funds to 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 funds.

(c) *Direct payments.* (1) An institution pays a student or parent directly by—

(i) Releasing to the student or parent a check provided by a lender to the institution under the FFEL Program;

(ii) Issuing a check payable to and requiring the endorsement of the student or parent. An institution issues a check on the date that it—

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

(B) Notifies the student that the check is available for immediate pick-up at a specified location at the institution. The institution may hold the check for up to 21 days after the date it notifies the student. If the student 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 the student's or parent's bank account, or return the funds to the appropriate title IV, HEA program;

(iii) Initiating an EFT to a bank account designated by the student or parent; or

(iv) Dispensing cash for which the 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 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 using a method described in paragraph (c) 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—

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

(ii) Before the account is opened, inform the student or parent of the terms and conditions associated with accepting and using the account;

(iii) 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 that the student or parent does not incur any cost in opening the account or initially receiving any type of debit card, stored-value card, other type of automated teller machine (ATM) card, or similar transaction de-

vice that is used to access the funds in that account;

(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 market or portray the account, card, or 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 account at the institution.* An institution may use title IV, HEA program funds to credit a student's account at the institution to satisfy—

(1) Current year charges for—

(i) Tuition and fees;

(ii) Board, if the student contracts with the institution for board;

(iii) Room, if the student contracts with the institution for room; 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 amount of all title IV, HEA program funds credited exceeds the amount of tuition and fees, room and board, and other authorized

charges the institution assessed the student, the institution must pay the resulting credit balance directly to the student or parent as soon as possible but—

(1) No later than 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 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) *Early disbursements.* Except as provided under paragraph (f)(3) of this section—

(1) If a student is enrolled in a credit-hour educational program that is offered in semester, trimester, or quarter academic terms, the earliest an institution may disburse title IV, HEA program funds to a student or parent for any payment period is 10 days before the first day of classes for a payment period.

(2) If a student is enrolled in a credit-hour educational program that is not offered in semester, trimester, or quarter academic terms, or in 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 the later of—

(i) Ten days before the first day of classes of the payment period; or

(ii) 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 institution may disburse the initial installment of a loan under the Direct Loan or FFEL programs to a first-year, first-time borrower as described in 34 CFR 682.604(c) and 34 CFR 685.303(b)(4) is 30 days after the first day of the student's program of study.

(g) *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, 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 (g)(4) of this section, a student who becomes ineligible (or the student's parent in the case of a PLUS loan) qualifies for a late disbursement if, before the date the student became ineligible—

(i) Except in the case of a parent PLUS loan, the Secretary processed a SAR or ISIR with an official expected family contribution; and

(ii) (A) For a loan under the FFEL or Direct Loan programs, the institution certified or originated the loan;

(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 (g)(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 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 account to pay for current and allowable charges as described in paragraph (d) of this section,

but must pay or offer any remaining amount to the student or parent; 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 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 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.

(ii) An institution may not make a 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 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(c)(5)(i), (ii), or (iii) or § 685.303(b)(4)(i)(A), (B), or (C) of this chapter.

(iv) An institution may not make a late disbursement of a Federal Pell Grant, an ACG, or a National SMART Grant 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.* (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 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 to disburse the funds by 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 a check 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 returned or rejected. In cases where the institution does not make another attempt, the funds must be returned 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, the institution must cease any additional disbursement attempts and immediately return those funds.

(Authority: 20 U.S.C. 1070g, 1094)

[61 FR 60603, Nov. 29, 1996, as amended at 64 FR 59042, Nov. 1, 1999; 67 FR 67073, Nov. 1, 2003; 71 FR 38003, July 3, 2006; 71 FR 45696, Aug. 9, 2006; 71 FR 64397, Nov. 1, 2006; 72 FR 62028, Nov. 1, 2007; 73 FR 35494, June 23, 2008]

§ 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 TEACH Grant