

## § 685.302

(c) *Reporting to the Secretary.* The Secretary accepts a student's Payment Data that is submitted in accordance with procedures established through publication in the FEDERAL REGISTER, and that contains information the Secretary considers to be accurate in light of other available information including that previously provided by the student and the institution.

(Approved by the Office of Management and Budget under control number 1845-0021)

(Authority: 20 U.S.C. 1087a *et seq.*)

[78 FR 65833, Nov. 1, 2013]

## § 685.302 [Reserved]

### § 685.303 Processing loan proceeds.

(a) *Purpose.* This section establishes rules governing a school's processing of a borrower's Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan proceeds. The school must also comply with any rules for processing loan proceeds contained in 34 CFR part 668.

(b) *General*—(1) A school may not disburse loan proceeds to a borrower unless the borrower has executed a legally enforceable promissory note.

(2) The Secretary provides Direct Loan funds to a school in accordance with 34 CFR 668.162.

(3)(i) Except in the case of a late disbursement under paragraph (f) of this section, or as provided in paragraph (b)(3)(iii) of this section, a school may disburse loan proceeds only to a student, or a parent in the case of a Direct PLUS Loan obtained by a parent borrower, if the school determines the student has continuously maintained eligibility in accordance with the provisions of § 685.200 from the beginning of the loan period for which the loan was intended.

(ii) If a student delays attending school for a period of time, the school may consider that student to have maintained eligibility for the loan from the first day of the period of enrollment. However, the school must comply with the requirements under paragraph (b)(4) of this section.

(iii) If, after a school makes the first disbursement to a borrower, the student becomes ineligible due solely to the school's loss of eligibility to participate in the title IV programs or the

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Direct Loan Program, the school may make subsequent disbursements to the borrower as permitted by 34 CFR part 668.

(iv) If, prior to making any disbursement to a borrower, the student temporarily ceases to be enrolled on at least a half-time basis, the school may make a disbursement and any subsequent disbursement to the student if the school determines and documents in the student's file—

(A) That the student has resumed enrollment on at least a half-time basis;

(B) The student's revised cost of attendance; and

(C) That the student continues to qualify for the entire amount of the loan, notwithstanding any reduction in the student's cost of attendance caused by the student's temporary cessation of enrollment on at least a half-time basis.

(4) If a student does not begin attendance in the period of enrollment, disbursed loan proceeds must be handled in accordance with 34 CFR 668.21.

(5)(i) If a student is enrolled in the first year of an undergraduate program of study and has not previously received a Direct Subsidized Loan, a Direct Unsubsidized Loan, a Subsidized or Unsubsidized Federal Stafford Loan, or a Federal Supplemental Loan for Students, a school may not disburse the proceeds of a Direct Subsidized or Direct Unsubsidized Loan until 30 days after the first day of the student's program of study unless—

(A)(I) Except as provided in paragraph (b)(5)(i)(A)(2) of this section, the school has a cohort default rate, calculated under subpart M of 34 CFR part 668, or weighted average cohort rate of less than 10 percent for each of the three most recent fiscal years for which data are available; or

(2) For loans first disbursed on or after October 1, 2011, the school in which the student is enrolled has a cohort default rate, calculated under either subpart M or N of 34 CFR part 668 of less than 15 percent for each of the three most recent fiscal years for which data are available;

(B) The school is an eligible home institution originating a loan to cover the cost of attendance in a study abroad program and has a Direct Loan

Program cohort rate, FFEL cohort default rate, or weighted average cohort rate of less than 5 percent for the single most recent fiscal year for which data are available.

(ii) Paragraphs (b)(5)(i)(A) and (B) of this section do not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M or subpart N of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in paragraph (b)(5)(i)(A) or (B) of this section, as applicable.

(iii) Paragraph (b)(5)(i)(B) of this section does not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M or subpart N of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in that paragraph.

(c) *Processing of the proceeds of a Direct Loan.* Schools must follow the procedures for disbursing funds in 34 CFR 668.164.

(d) *Determining disbursement dates and amounts.* (1) Before disbursing a loan, a school must determine that all information required by the promissory note has been provided by the borrower and, if applicable, the student.

(2) An institution must disburse the loan proceeds on a payment period basis in accordance with 34 CFR 668.164(b).

(3) Unless paragraph (d)(4) or (d)(6) of this section applies—

(i) If a loan period is more than one payment period, the school must disburse loan proceeds at least once in each payment period; and

(ii) If a loan period is one payment period, the school must make at least two disbursements during that payment period.

(A) For a loan originated under § 685.301(a)(10)(i)(A), the school may not make the second disbursement until the calendar midpoint between the first and last scheduled days of class of the loan period.

(B) For a loan originated under § 685.301(a)(10)(i)(B), the school may not make the second disbursement until

the student successfully completes half of the number of credit hours or clock hours and half of the number of weeks of instructional time in the payment period.

(4)(i) If one or more payment periods have elapsed before a school makes a disbursement, the school may include in the disbursement loan proceeds for completed payment periods.

(ii) If the loan period is equal to one payment period and more than one-half of it has elapsed, the school may include in the disbursement loan proceeds for the entire payment period.

(5) The school must disburse loan proceeds in substantially equal installments, and no installment may exceed one-half of the loan.

(6)(i) A school is not required to make more than one disbursement if—

(A)(1) The loan period is not more than one semester, one trimester, one quarter, or, for non term-based schools or schools with non-standard terms, 4 months; and

(2)(i) Except as provided in paragraph (d)(6)(i)(A)(2)(ii) of this section, the school has a cohort default rate, calculated under subpart M of 34 CFR part 668 of less than 10 percent for each of the three most recent fiscal years for which data are available; or

(ii) For loan disbursements made on or after October 1, 2011, the school in which the student is enrolled has a cohort default rate, calculated under either subpart M or subpart N of 34 CFR part 668, of less than 15 percent for each of the three most recent fiscal years for which data are available; or

(B) The school is an eligible home institution originating a loan to cover the cost of attendance in a study abroad program and has a cohort default rate, calculated under subpart M or subpart N of 34 CFR part 668, of less than five percent for the single most recent fiscal year for which data are available.

(ii) Paragraphs (d)(6)(i)(A) and (B) of this section do not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M or subpart N of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in

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paragraph (d)(6)(i)(A) or (B) of this section, as applicable.

(iii) Paragraph (d)(6)(i)(B) of this section does not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M or subpart N of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in that paragraph.

(e) *Annual loan limit progression based on completion of an academic year.* (1) If a school measures academic progress in an educational program in credit hours and uses either standard terms (semesters, trimesters, or quarters) or non-standard terms that are substantially equal in length, and each term is at least nine weeks of instructional time in length, a student is considered to have completed an academic year and progresses to the next annual loan limit when the academic year calendar period has elapsed.

(2) If a school measures academic progress in an educational program in credit hours and uses nonstandard terms that are not substantially equal in length or each term is not at least nine weeks of instructional time in length, or measures academic progress in credit hours and does not have academic terms, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the academic coursework in the student's academic year.

(3) If a school measures academic progress in an educational program in clock hours, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the clock hours in the student's academic year.

(4) For purposes of this section, terms in a loan period are substantially equal in length if no term in the loan period is more than two weeks of instructional time longer than any other term in that loan period.

(f) *Late Disbursement.* A school may make a late disbursement according to the provisions found under 34 CFR 668.164(g).

(g) *Treatment of excess loan proceeds.* Before the disbursement of any Direct Subsidized Loan, Direct Unsubsidized Loan, or Direct PLUS Loan proceeds, if a school learns that the borrower will receive or has received financial aid for the period of enrollment for which the loan was intended that exceeds the amount of assistance for which the student is eligible (except for Federal Work-Study Program funds up to \$300), the school must reduce or eliminate the overaward by either—

(1) Using the student's Direct Unsubsidized Loan, Direct PLUS Loan, or State-sponsored or another non-Federal loan to cover the expected family contribution, if not already done; or

(2) Reducing one or more subsequent disbursements to eliminate the overaward.

(Approved by the Office of Management and Budget under control number 1840-0672)

(Authority: 20 U.S.C. 1087a *et seq.*)

[59 FR 61690, Dec. 1, 1994, as amended at 60 FR 33345, June 28, 1995; 61 FR 29901, June 12, 1996; 61 FR 60610, Nov. 29, 1996; 64 FR 58971, Nov. 1, 1999; 65 FR 65651, Nov. 1, 2000; 66 FR 34766, June 29, 2001; 68 FR 75430, Dec. 31, 2003; 71 FR 45717, Aug. 9, 2006; 71 FR 64400, Nov. 1, 2006; 72 FR 62033, Nov. 1, 2007; 74 FR 55666, Oct. 28, 2009; 75 FR 67200, Nov. 1, 2010; 78 FR 65839, Nov. 1, 2013]

### § 685.304 Counseling borrowers.

(a) *Entrance counseling.* (1) Except as provided in paragraph (a)(8) of this section, a school must ensure that entrance counseling is conducted with each Direct Subsidized Loan or Direct Unsubsidized Loan student borrower prior to making the first disbursement of the proceeds of a loan to a student borrower unless the student borrower has received a prior Direct Subsidized Loan, Direct Unsubsidized Loan, Subsidized or Unsubsidized Federal Stafford Loan, or Federal SLS Loan.