

RETURN OF TITLE IV FUNDS - TERM-BASED PROGRAMS WITH MODULES OR COMPRESSED COURSES - (Secs 668.22(a), 668.22(f) and 668.22(l))

Rationale for Regulation: The formula for calculating the return of Title IV funds produced inequitable results when applied to different configurations of modular courses of the same duration.

Key Provisions of the Regulation: This section concerns calculating the amount of Title IV funds that need to be returned when a student withdraws from a modular program. Changes are made to Section 668.11(a)(2). These technical changes are detailed on page 66895 of the October 29, final regulations and are more relevant to for-profit institutions..

Regulatory Language:

The additions and revisions read as follows:

Sec. 668.22 Treatment of title IV funds when a student withdraws.

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(a) * * *

(2)(i) Except as provided in paragraphs (a)(2)(ii) and (a)(2)(iii) of this section, a student is considered to have withdrawn from a payment period or period of enrollment if-

(A) In the case of a program that is measured in credit hours, the student does not complete all the days in the payment period or period of enrollment that the student was scheduled to complete;

(B) In the case of a program that is measured in clock hours, the student does not complete all of the clock hours and weeks of instructional time in the payment period or period of enrollment that the student was scheduled to complete; or

(C) For a student in a nonterm or nonstandard-term program, the student is not scheduled to begin another course within a payment period or period of enrollment for more than 45 calendar days after the end of the module the student ceased attending, unless the student is on an approved leave of absence, as defined in paragraph (d) of this section.

(ii)(A) Notwithstanding paragraph (a)(2)(i)(A) and (a)(2)(i)(B) of this section, for a payment period or period of enrollment in which courses in the program are offered in modules--

(1) A student is not considered to have withdrawn if the institution obtains written confirmation from the student at the time that would have been a withdrawal of the date that he or she will attend a module that begins later in the same payment period or period of enrollment; and

(2) For nonterm and nonstandard-term programs, that module begins no later than 45 calendar days after the end of the module the student ceased attending.

(B) If an institution has obtained the written confirmation of future attendance in accordance with paragraph (a)(2)(ii)(A) of this section--

(1) A student may change the date of return to a module that begins later in the same payment period or period of enrollment, provided that the student does so in writing prior to the

return date that he or she had previously confirmed; and

(2) For nonterm and nonstandard-term programs, the later module that he or she will attend begins no later than 45 calendar days after the end of module the student ceased attending.

(C) If an institution obtains written confirmation of future attendance in accordance with paragraph (a)(2)(ii)(A) and, if applicable, (a)(2)(ii)(B) of this section, but the student does not return as scheduled--

(1) The student is considered to have withdrawn from the payment period or period of enrollment; and

(2) The student's withdrawal date and the total number of calendar days in the payment period or period of enrollment would be the withdrawal date and total number of calendar days that would have applied if the student had not provided written confirmation of a future date of attendance in accordance with paragraph (a)(2)(ii)(A) of this section.

(iii)(A) If a student withdraws from a term-based credit-hour program offered in modules during a payment period or period of enrollment and reenters the same program prior to the end of the period, subject to conditions established by the Secretary, the student is eligible to receive any title IV, HEA program funds for which he or she was eligible prior to withdrawal, including funds that were returned by the institution or student under the provisions of this section, provided the student's enrollment status continues to support the full amount of those funds.

(B) In accordance with Sec. 668.4(f), if a student withdraws from a clock-hour or nonterm credit hour program during a payment period or period of enrollment and then reenters the same program within 180 calendar days, the student remains in that same period when he or she returns and, subject to conditions established by the Secretary, is eligible to receive any title IV, HEA program funds for which he or she was eligible prior to withdrawal, including funds that were returned by the institution or student under the provisions of this section.

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(b) * * *

(3)(i) An institution is required to take attendance if--

(A) An outside entity (such as the institution's accrediting agency or a State agency) has a requirement that the institution take attendance;

(B) The institution itself has a requirement that its instructors take attendance; or

(C) The institution or an outside entity has a requirement that can only be met by taking attendance or a comparable process, including, but not limited to, requiring that students in a program demonstrate attendance in the classes of that program, or a portion of that program.

(ii) If, in accordance with paragraph (b)(3)(i) of this section, an institution is required to take attendance or requires that attendance be taken for only some students, the institution must use its attendance records to determine a withdrawal date in accordance with paragraph (b)(1) of this section for those students.

(iii)(A) If, in accordance with paragraph (b)(3)(i) of this section, an institution is required to take attendance, or requires that attendance be taken, for a limited period, the institution must use its attendance records to determine a withdrawal date in accordance with paragraph (b)(3)(i)

of this section for that limited period.

(B) A student in attendance the last time attendance is required to be taken during the limited period identified in paragraph (b)(3)(iii)(A) of this section who subsequently stops attending during the payment period will be treated as a student for whom the institution was not required to take attendance.

(iv) If an institution is required to take attendance or requires that attendance be taken, on only one specified day to meet a census reporting requirement, the institution is not considered to take attendance.

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(f) * * *

(2)(i) The total number of calendar days in a payment period or period of enrollment includes all days within the period that the student was scheduled to complete, except that scheduled breaks of at least five consecutive days are excluded from the total number of calendar days in a payment period or period of enrollment and the number of calendar days completed in that period.

(ii) The total number of calendar days in a payment period or period of enrollment does not include--

(A) Days in which the student was on an approved leave of absence; or

(B) For a payment period or period of enrollment in which any courses in the program are offered in modules, any scheduled breaks of at least five consecutive days when the student is not scheduled to attend a module or other course offered during that period of time.

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(1) * * *

(6) A program is "offered in modules" if a course or courses in the program do not span the entire length of the payment period or period of enrollment.

(7)(i) "Academic attendance" and "attendance at an academically-related activity"--

(A) Include, but are not limited to--

(1) Physically attending a class where there is an opportunity for direct interaction between the instructor and students;

(2) Submitting an academic assignment;

(3) Taking an exam, an interactive tutorial, or computer-assisted instruction;

(4) Attending a study group that is assigned by the institution;

(5) Participating in an online discussion about academic matters; and

(6) Initiating contact with a faculty member to ask a question about the academic subject studied in the course; and

(B) Do not include activities where a student may be present, but not academically engaged, such as--

(1) Living in institutional housing;

- (2) Participating in the institution's meal plan;
- (3) Logging into an online class without active participation; or
- (4) Participating in academic counseling or advisement.

(ii) A determination of "academic attendance" or "attendance at an academically-related activity" must be made by the institution; a student's certification of attendance that is not supported by institutional documentation is not acceptable.

(8) A program is a nonstandard-term program if the program is a term-based program that does not qualify under 34 CFR 690.63(a)(1) or (a)(2) to calculate Federal Pell Grant payments under 34 CFR 690.63(b) or (c).