

Tentative Agreement on Regulatory Language

Proposed Regulatory Language Committee II - Program Issues

Quick Fix: Yes

Origin: ED Proposed 12/14/2001

Issue: Federal Work-Study - Employment
Flexibility
for Proprietary Institutions

Regulatory Cite: §675.2(b) & §675.21(b)

Summary of Change: The HEA places limitations on proprietary institutions with regard to the types of job that FWS students may hold when they are employed by the institution. One of those limitations is that FWS jobs that are on campus must furnish student services that are directly related to the student's education. These proposed regulatory changes would broaden and clarify the opportunities for students who attend proprietary institutions to be employed by the institution itself under the FWS Program.

Section 675.2 - The proposed change to §675.2 would expand the definition of "student services" by adding further examples, including job placement and assisting instructors in curriculum related activities. The proposed change §675.2 would also clarify that there is no expectation that the FWS job involve direct or personal services. Finally, the proposed change would clarify that some FWS jobs, such as those in facility maintenance, cleaning, purchasing, and public relations, are never considered student services.

Section 675.21 - The proposed change to §675.21 would move the statutory requirement that the job must be directly related to the student's education from the definition of student services in 675.2 to the actual regulatory requirements for employment at a proprietary institution.

Updated information Since 3/6-8 Meetings: The words "the services of" were eliminated from the last sentence of the definition of "student services" at the request of the negotiators in §675.2.

Tentative Agreement: Yes

Changes:

§675.2 Definitions.

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(b) The Secretary defines other terms used in this part as follows:

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Student services: Services that are offered to students ~~that are directly related to the work-study student's training or education and that~~ that may include, but are not limited to, financial aid, library, peer guidance counseling, job placement, assisting an instructor with curriculum-related activities, security, and social, health, and tutorial services. Student services do not have to be direct or involve personal interaction with students. For purposes of this definition, ~~the services of~~ facility maintenance, cleaning, purchasing, and public relations are never considered student services.

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§675.21 Institutional employment.

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(b) A proprietary institution may employ a student to work for the institution, but only in jobs that --

- (1) Are in community services as defined in § 675.2; or
- (2) Are on campus and that --
 - (i) Involve the provision of student services as defined in §675.2 that are directly related to the work-study student's training or education;
 - (ii) To the maximum extent possible, complement and reinforce the educational program or vocational goals of the student; and
 - (iii) Do not involve the solicitation of potential students to enroll at the proprietary institution.

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Regulatory Language Format for Notice of Proposed

Rulemaking:

Part 675 -- FEDERAL WORK-STUDY PROGRAMS

1. The authority citation for part 675 continues to read as follows:

Authority: 42 U.S.C. 2751-2756b, unless otherwise noted.

2. In §675.2 paragraph (b) is amended by revising the definition of "Student services" to read as follows:

§ 675.2 Definitions.

* * * * *

(b) * * *

Student services: Services that are offered to students that may include, but are not limited to, financial aid, library, peer guidance counseling, job placement, assisting an instructor with curriculum-related activities, security, and social, health, and tutorial services. Student services do not have to be direct or involve personal interaction with students. For purposes of this definition, facility maintenance, cleaning, purchasing, and public relations are never considered student services.

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3. Section 675.21 is amended by revising paragraph (b) (2) (i) to read as follows:

§675.21 Institutional employment.

* * * * *

(b) * * *

(2) * * *

(i) Involve the provision of student services as defined in §675.2 that are directly related to the work-study student's training or education;

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Proposed Regulatory Language
Committee II - Program Issues

Quick Fix: Yes
Origin: Fed Up #7
Issue: Electronic Process - Administrative
Regulatory Cite: §668.165

Summary of Change: Whenever an institution credits a student's account with title IV loan funds, it must notify the student or parent of his or her right to cancel all or a portion of the loan or loan disbursement. The notice may be provided in writing or sent electronically. The proposed change to §668.165(a)(3)(ii) would eliminate the requirement that an institution must confirm the receipt of a notice sent electronically.

Updated Information
Since 3/6-8 Meetings: None

Tentative Agreement: Yes

Change:

§668.165 Notices and authorizations.

(a) * * * * *

(3) The institution must send the notice described in paragraph (a)(2) of this section in writing

~~(i) No~~ no earlier than 30 days before and no later than 30 days

after crediting the student's account at the institution. ~~and~~

~~(ii) Either in writing or electronically. If the institution~~

~~sends the notice electronically, it must confirm receipt by the~~

~~student or parent of the electronic notification and must maintain documentation of that confirmation.~~

Regulatory Language Format for Notice of Proposed Rulemaking:

PART 668 - STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as

follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1085, 1091, 1091b, 1092, 1094, 1099c, and 1099c-1, unless otherwise noted.

2. Section 668.165 is amended by revising paragraph (a) (3) to read as follows:

§668.165 Notices and authorizations.

* * * * *

(a) * * *

(3) The institution must send the notice described in paragraph (a) (2) of this section in writing no earlier than 30 days before and no later than 30 days after crediting the student's account at the institution.

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**Proposed Regulatory Language
Committee II - Program Issues**

Quick Fix: Yes

Origin: ED

Issue: Treatment of Branch Campuses

Regulatory Cite: §600.8

Summary of Change: Clarify that the two-year rule only applies ~~to~~ proprietary institutions of higher education and postsecondary vocational institutions.

Updated Information

Since 3/6-8 Meetings: None

Tentative Agreement: Yes

Change:

§600.8 Treatment of a branch campus.

A branch campus of an eligible [proprietary institution of higher education or a postsecondary vocational institution](#) must be in existence for at least two years as a branch campus after the branch is certified as a branch campus before seeking to be designated as a main campus or a free-standing institution.

Regulatory Language Format for Notice of Proposed Rulemaking:

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

1. The authority citation for part 600 is revised to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1088, 1091, 1094, 1099b, and 1099c, unless otherwise noted.

2. Section 600.8 is revised to read as follows:

§600.8 Treatment of a branch campus.

A branch campus of an eligible proprietary institution of higher education or a postsecondary vocational institution must be in existence for at least two years as a branch campus after the branch is certified as a branch campus before seeking to be designated as a main campus or a free-standing institution.

(Authority: 20 U.S.C. 1099c)

**Proposed Regulatory Language
Committee II - Program Issues**

Quick Fix: No

Origin: Fed Up #82

Issue: GEAR UP

Regulatory Cite: §694.10 (e)

Summary of Change: Revise packaging requirements. Removes the requirement that an institution award student financial assistance in an established order for GEAR UP scholarship recipients. Retains the statutory requirement in 404E(c) that GEAR UP scholarships shall not be considered in awarding Title IV grant assistance.

Updated Information

Since 3/6-8 Meetings: None.

Tentative Agreement: Yes

Change:

§694.10 What are the requirements for awards under the program's scholarship component under section 404E of the HEA?

(a) *Amount of scholarship.* (1) Except as provided in paragraph (a)(2) of this section, the amount of a scholarship awarded under section 404E of the HEA must be at least the lesser of --

(i) 75 percent of the average cost of attendance, as determined under section 472 of the HEA, for in-State students in 4-year programs of instruction at public institutions of higher education in the State; or

(ii) The maximum Federal Pell Grant award funded for the award year in which the scholarship will be awarded.

(2) If a student who is awarded a GEAR UP scholarship attends an institution on a less than full-time basis during any award year, the State or Partnership awarding the GEAR UP scholarship may reduce the scholarship amount, but in no case shall the percentage reduction in the

scholarship be greater than the percentage reduction in tuition and fees charged to that student.

(b) *Pell Grant recipient priority.* A State, or a Partnership that chooses to participate in the scholarship component under section 404E of the HEA in its GEAR UP project --

(1) Must award GEAR UP scholarships first to students who will receive, or are eligible to receive, a Federal Pell Grant during the award year in which the GEAR UP scholarship is being awarded and who are eligible for a GEAR UP scholarship under the eligibility requirements in section 404E(d) of the HEA; and

(2) May, if GEAR UP scholarship funds remain after awarding scholarships to students under paragraph (b)(1) of this section, award GEAR UP scholarships to other eligible students (who will not receive a Federal Pell Grant) after considering the need of those students for GEAR UP scholarships.

(c) *Cost of attendance.* A GEAR UP scholarship, in combination with other student financial assistance awarded under any title IV HEA program and any other grant or scholarship assistance, may not exceed the student's cost of attendance.

(d) *Continuation scholarships.* A State, or a Partnership that chooses to participate in the scholarship component in accordance with section 404E of the HEA in its GEAR UP project, must award continuation scholarships in successive award years to each student who received an initial scholarship and who continues to be eligible for a scholarship.

(e) *Other grant assistance.* A GEAR UP scholarship may not be considered in the determination of a student's eligibility for other grant assistance provided under Title IV of the HEA.

~~(e) *Order of Scholarships.* (1) *In general.* Notwithstanding 34 CFR 673.5, in awarding GEAR UP scholarships, a State or Partnership must ensure that, for each recipient of a scholarship under this part who is eligible for and receiving other postsecondary student financial assistance, a Federal Pell Grant, if applicable, be awarded first, any~~

~~other public or private grants, scholarships, or tuition discounts be awarded second, a GEAR UP scholarship be awarded third, and then any other financial assistance, such as loans or work-study, be awarded.~~

~~(2) Exception. Notwithstanding paragraph (c) (1) of this section, a State or Partnership is not required to ensure that a GEAR UP scholarship recipient's financial aid be awarded in the order set forth in paragraph (c) (1) only if~~

~~(i) It determines and documents in writing that there are exceptional circumstances related to the GEAR UP student's aid that are unique to that GEAR UP student;~~

~~(ii) It documents and maintains in the GEAR UP student's file the modification that was made to the GEAR UP student's award package and the reason for the modification; and~~

~~(iii) It provides written notification to the GEAR UP student of the reason for and the specific modification that was made to the package. (Authority: 20 U.S.C. 1070a-25)~~

Regulatory Language Format for Notice of Proposed

Rulemaking:

PART 694 - GAINING EARLY AWARENESS AND READINESS FOR
UNDERGRADUATE PROGRAMS (GEAR UP)

1. The authority citation for part 694 continues to read as follows:

Authority: 20 U.S.C. 1070a-21 to 1070a-28, unless otherwise noted.

2. Section 694.10(e) is revised to read as follows:

§694.10 What are the requirements for awards under the program's scholarship component under section 404E of the HEA?

* * * * *

(e) Other grant assistance. A GEAR UP scholarship may not be considered in the determination of a student's eligibility for other grant assistance provided under Title IV of the HEA.

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**Proposed Regulatory Language
Committee II - Program Issues**

Quick Fix: No

Origin: ED

Issue: Overpayment

Regulatory Cite: §668.35(c), §673.5(f), and §690.79

Summary of Change: Current policy under Return of Title IV Funds provides that a student does not lose eligibility nor has to repay a grant overpayment resulting from withdrawal if the total amount of the Title IV grant funds the student is responsible for repaying is less than \$25 and is not a remaining balance after the application of prior payments or of institutional credit balances. These proposed regulatory changes would apply that policy to all Title IV grant or Federal Perkins loan overpayments, as long as the overpayment is not the result of school error. The under \$25 de minimis amount does not apply to amounts for which the school is liable.

Section 668.35 - The proposed change to §668.35 would provide that owing an overpayment amount of less than \$25 under the Federal Perkins Loan program or under a Title IV grant program that is not a remaining balance nor a result of the application of the campus-based overaward threshold would not cause a student to be ineligible for Title IV, HEA funds.

Section 673.5 - The proposed change to §673.5 would provide that a student is not liable for a Federal Perkins loan overpayment or an FSEOG overpayment that is less than \$25 if the overpayment is not a remaining balance nor a result of the application of the campus-based overaward threshold. For purposes of determining, recovering, and referring an FSEOG overpayment, the non-Federal share is not counted unless the institution meets its FSEOG matching requirement by using the fund specific method.

For such de minimis overpayments, the school is not required to attempt recovery of the overpayment or refer it to the Secretary. However, the school must attempt recovery of all other overpayment amounts for which it is not liable and refer any FSEOG overpayment to the Secretary for

collection purposes. Note that under Return to Title IV Funds policy, Perkins Loans are not treated as an overpayment. Rather, unearned Perkins Loan funds are repaid according to the terms of the loan. That is a distinction from this policy.

Section 690.79 - The proposed change to §690.79 would provide that a student is not liable for a Federal Pell Grant overpayment amount that is less than \$25 and is not a remaining balance. For such overpayments, the school is not required to attempt recovery of the overpayment or refer it to the Secretary. However, the school must attempt recovery of and refer all other Pell Grant overpayment amounts for which it is not liable.

Updated Information Since 3/6-8 Meetings: In §673.5(f)(4)(i), the previously deleted word "written" in front of "notice" was restored to be consistent with §690.79(b)(1) as well as other places in the regulations where notices are required. Also, some paragraph headings were removed for consistency and adherence to guidelines for the Federal Register. The preamble will include a reminder that, for purposes of all FSA program requirements, a "written notice" can be electronic unless otherwise specified. Also, at the request of the negotiators, the preamble will include an explanation and illustrative example of a "remaining balance" under these rules.

Tentative Agreement: Yes

Change:

§668.35 Student debts under the HEA and to the U.S.

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(c) A student who receives an overpayment under the Federal Perkins Loan Program, or under a title IV, HEA grant program may nevertheless be eligible to receive title IV, HEA program assistance if ~~the student~~

(1) ~~Pays~~ The student pays the overpayment in full; ~~or~~

(2) ~~Makes~~ The student makes arrangements~~7~~ satisfactory to the holder of the overpayment debt~~7~~ to pay the overpayment~~7~~; or

(3) The overpayment amount is less than \$25 and is not a remaining balance nor a result of the application of the overaward threshold in 34 CFR 673.5(d).

* * * * *

§673.5 Overaward.

* * * * *

(f) *Liability for and recovery of Federal Perkins loans and FSEOG overpayments.*

(1) ~~A~~ Except as provided in paragraphs (f) (2) and (f) (3) of this section, a student is liable for any Federal Perkins loan or FSEOG overpayment made to him or her. The FSEOG overpayment for purposes of paragraph (f) of this section does not include the non-Federal share of FSEOG awards if an institution meets its FSEOG matching share by the individual recipient method or the aggregate method.

(2) The institution is ~~also~~ liable for a Federal Perkins loan or FSEOG overpayment if the overpayment occurred because the institution failed to follow the procedures in this part, 34 CFR part 668, 34 CFR part 674, or 34 CFR part 676. The institution shall restore an amount equal to the

overpayment and any administrative cost allowance claimed on that amount to its loan fund for a Federal Perkins loan overpayment or to its FSEOG account for an FSEOG overpayment ~~if it cannot collect the overpayment from the student.~~

(3) A student is not liable for and the institution is not required to attempt recovery of a Federal Perkins loan or FSEOG overpayment, or refer to the Secretary an FSEOG overpayment, if the overpayment—

(i) Is less than \$25, and

(ii) Is not a remaining balance nor a result of the application of the overaward threshold in paragraph (d) of this section.

~~(3)~~(4) (i) IfExcept as provided in paragraph (f) (3) of this section, if an institution makes a Federal Perkins loan or FSEOG overpayment for which it is not liable, it shall ~~help the Secretary recover the overpayment by promptly attempting to recover the overpayment by sending~~ promptly send a written notice to the student requesting repayment of ~~the overawarded funds~~ the overpayment amount. The notice must state that failure to make that repayment, or to make arrangements, satisfactory to the holder of the overpayment debt, to pay the overpayment, ~~renders~~ makes the student

ineligible for further title IV aid until final resolution of the overpayment.

~~(4)(ii)~~ If a student objects to the institution's Federal Perkins loan or FSEOG overpayment determination on the grounds that it is erroneous, the institution shall consider any information provided by the student and determine whether the objection is warranted.

(5) ~~Referral of FSEOG overpayments. (i) If~~Except as provided in paragraph (f) (3) of this section, if the a student fails to repay an FSEOG overpayment, or make arrangements, satisfactory to the holder of the overpayment debt, to pay the FSEOG overpayment, after the institution has taken the action required by paragraph (f) (4) of this section, after taking the action required by paragraph (f) (3) and, if applicable, paragraph (f) (4) of this section, and the Federal share of the FSEOG overpayment is \$25.00 or more, the institution shall ~~notify~~refer the FSEOG overpayment to the Secretary for collection purposes, identifying the Federal share of the FSEOG overpayment, the student's name, most recent address, telephone number, and any other relevant information in accordance with procedures required by the Secretary. After ~~notifying~~referring the FSEOG overpayment to the Secretary under this section, the institution need make no further ~~recovery~~

~~efforts of FSEOG overpayments~~ effort to recover the overpayment.

~~(ii) If an institution fails in its attempt to collect the overpayment and the Federal share of the FSEOG overpayment is less than \$25.00, the institution need make no further recovery efforts of the FSEOG overpayment.~~

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§690.79 Recovery Liability for and recovery of Federal Pell Grant overpayments.

(a) (1) ~~The~~ Except as provided in paragraphs (a) (2) and (a) (3) of this section, a student is liable for any Federal Pell Grant overpayment made to him or her.

(2) The institution is liable for ~~any~~ a Federal Pell Grant overpayment if the overpayment occurred because the institution failed to follow the procedures set forth in this part or 34 CFR part 668. The institution shall restore ~~those funds~~ an amount equal to the overpayment to its Federal Pell Grant account ~~even if it cannot collect the overpayment from the student~~.

(3) A student is not liable for and the institution is not required to attempt recovery of or refer to the Secretary a Federal Pell Grant overpayment if the amount of the overpayment is less than \$25 and is not a remaining balance.

(b) (1) If ~~Except as provided in paragraph (a) (3) of this section,~~ if an institution makes ~~an~~ a Federal Pell Grant overpayment for which it is not liable, it shall ~~help the Secretary recover the overpayment by~~

~~(1) Making a reasonable effort to contact the student and recover the overpayment; and, if unsuccessful,~~

~~(2) Providing the Secretary with the student's name, social security number, amount of overpayment, and other relevant information.~~

~~(c) If an institution refers a student who received an overpayment for which it is not liable to the Secretary for recovery, the student remains ineligible for further title IV, HEA program assistance for attendance at any institution until the student repays the overpayment or the Secretary determines the overpayment has been resolved.~~

promptly send a written notice to the student requesting repayment of the overpayment amount. The notice must state that failure to make that repayment, or to make arrangements satisfactory to the holder of the overpayment debt to pay the overpayment, makes the student ineligible for further title IV aid until final resolution of the Federal Pell Grant overpayment.

(2) If a student objects to the institution's Federal Pell Grant overpayment determination on the grounds that it is erroneous, the institution shall consider any information provided by the student and determine whether the objection is warranted.

(c) Except as provided in paragraph (a) (3) of this section, if the student fails to repay a Federal Pell Grant overpayment, or make arrangements satisfactory to the holder of the overpayment debt to pay the Federal Pell Grant overpayment, after the institution has taken the action required by paragraph (b) of this section, the institution shall refer the overpayment to the Secretary for collection purposes, in accordance with procedures required by the Secretary. After referring the Federal Pell Grant overpayment to the Secretary under this section, the institution need make no further efforts to recover the overpayment.

Regulatory Language Format for Notice of Proposed

Rulemaking:

PART 668 - STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1085, 1091, 1091b, 1092, 1094, 1099c, and 1099c-1, unless otherwise noted.

2. Section 668.35 is amended by revising paragraph (c) to read as follows:

§668.35 Student debts under the HEA and to the U.S.

* * * * *

(c) A student who receives an overpayment under the Federal Perkins Loan Program, or under a title IV, HEA grant program may nevertheless be eligible to receive title IV, HEA program assistance if—

(1) The student pays the overpayment in full;

(2) The student makes arrangements satisfactory to the holder of the overpayment debt to pay the overpayment; or

(3) The overpayment amount is less than \$25 and is not a remaining balance nor a result of the application of the overaward threshold in 34 CFR 673.5(d).

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PART 673 - GENERAL PROVISIONS FOR THE FEDERAL PERKINS LOAN PROGRAM, FEDERAL WORK-STUDY PROGRAM, AND FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

3. The authority citation for part 673 continues to read as follows:

Authority: 20 U.S.C. 421-429, 1070b-1070b-3, and 1087aa-1087ii; 42 U.S.C. 2751-2756b, unless otherwise noted.

4. Section 673.5 is amended by revising paragraph (f) to read as follows:

§673.5 Overaward.

* * * * *

(f) Liability for and recovery of Federal Perkins loans and FSEOG overpayments.(1) Except as provided in paragraphs (f) (2) and (f) (3) of this section, a student is

liable for any Federal Perkins loan or FSEOG overpayment made to him or her. The FSEOG overpayment for purposes of paragraph (f) of this section does not include the non-Federal share of FSEOG awards if an institution meets its FSEOG matching share by the individual recipient method or the aggregate method.

(2) The institution is liable for a Federal Perkins loan or FSEOG overpayment if the overpayment occurred because the institution failed to follow the procedures in this part or 34 CFR parts 668, 674, or 676. The institution shall restore an amount equal to the overpayment and any administrative cost allowance claimed on that amount to its loan fund for a Federal Perkins loan overpayment or to its FSEOG account for an FSEOG overpayment.

(3) A student is not liable for and the institution is not required to attempt recovery of a Federal Perkins loan or FSEOG overpayment, or refer to the Secretary an FSEOG overpayment, if the overpayment—

(i) Is less than \$25, and

(ii) Is not a remaining balance nor a result of the application of the overaward threshold in paragraph (d) of this section.

(4) (i) Except as provided in paragraph (f) (3) of this section, if an institution makes a Federal Perkins loan or

FSEOG overpayment for which it is not liable, it shall promptly send a written notice to the student requesting repayment of the overpayment amount. The notice must state that failure to make that repayment, or to make arrangements satisfactory to the holder of the overpayment debt to pay the overpayment, makes the student ineligible for further title IV aid until final resolution of the overpayment.

(ii) If a student objects to the institution's Federal Perkins loan or FSEOG overpayment determination on the grounds that it is erroneous, the institution shall consider any information provided by the student and determine whether the objection is warranted.

(5) Except as provided in paragraph (f)(3) of this section, if a student fails to repay an FSEOG overpayment, or make arrangements satisfactory to the holder of the overpayment debt to pay the FSEOG overpayment, after the institution has taken the action required by paragraph (f)(4) of this section, the institution shall refer the FSEOG overpayment to the Secretary for collection purposes, in accordance with procedures required by the Secretary. After referring the FSEOG overpayment to the Secretary under this section, the institution need make no further effort to recover the overpayment.

PART 690 - FEDERAL PELL GRANT PROGRAM

5. The authority citation for part 690 continues to read as follows:

Authority: 20 U.S.C. 1070a, unless otherwise noted.

6. Section 690.79 is revised to read as follows:

§690.79 Liability for and recovery of Federal Pell Grant overpayments.

(a) (1) Except as provided in paragraphs (a) (2) and (a) (3) of this section, a student is liable for any Federal Pell Grant overpayment made to him or her.

(2) The institution is liable for a Federal Pell Grant overpayment if the overpayment occurred because the institution failed to follow the procedures set forth in this part or 34 CFR part 668. The institution shall restore an amount equal to the overpayment to its Federal Pell Grant account.

(3) A student is not liable for and the institution is not required to attempt recovery of or refer to the Secretary a Federal Pell Grant overpayment if the amount of the overpayment is less than \$25 and is not a remaining balance.

(b) (1) Except as provided in paragraph (a) (3) of this section, if an institution makes a Federal Pell Grant overpayment for which it is not liable, it shall promptly send a written notice to the student requesting repayment of the overpayment amount. The notice must state that failure to make that repayment, or to make arrangements satisfactory to the holder of the overpayment debt to pay the overpayment, makes the student ineligible for further

title IV aid until final resolution of the Federal Pell Grant overpayment.

(2) If a student objects to the institution's Federal Pell Grant overpayment determination on the grounds that it is erroneous, the institution shall consider any information provided by the student and determine whether the objection is warranted.

(c) Except as provided in paragraph (a)(3) of this section, if the student fails to repay a Federal Pell Grant overpayment, or make arrangements satisfactory to the holder of the overpayment debt to pay the Federal Pell Grant overpayment, after the institution has taken the action required by paragraph (b) of this section, the institution shall refer the overpayment to the Secretary for collection purposes, in accordance with procedures required by the Secretary. After referring the Federal Pell Grant overpayment to the Secretary under this section, the institution need make no further efforts to recover the overpayment.

**Proposed Regulatory Language
Committee II - Program Issues**

Quick Fix: No

Origin: Fed Up (not on 12/14/01 list)

Issue: ATB Testing Requirements

Regulatory Cite: §668.32(e) and §668.151(a)

Summary of Change: The change in §668.32(e) eliminates the requirement to limit the duration of a passing score on an Ability-To-Benefit test to 12 months before the student initially receives Title IV funds. A corresponding modification to §668.151(a) is a clarification, making explicit in this section what is already required in §668.150(b)(6) and §668.152(b)(1), whereby an institution may use the results of an approved test that are received from the test publisher or an assessment center. Therefore, should a student transfer to another institution, the original approved test results obtained from the test publisher or the assessment center remain valid for the purpose of establishing student eligibility for Title IV, HEA program assistance.

Updated Information Since 3/6-8 Meetings: Amendments to §668.151 were made to address concerns that were raised about obtaining official scores. Section 668.151(a)(2) is modified by inserting "...[r]eceived from an approved test publisher or an assessment center" following, "An institution may use the results of an approved test...".

Tentative Agreement: Yes (on language presented at March meetings which did not include draft amendments to §668.151).

Change:

§ 668.32 Student eligibility - general.

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(e)(1) Has a high school diploma or its recognized equivalent;

(2) Has obtained ~~within 12 months before the date the student initially receives title IV, HEA program~~

~~assistance~~, a passing score specified by the Secretary on an independently administered test in accordance with subpart J of this part;

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§ 668.151 Administration of tests.

* * * * *

(a) * * *

(2) An institution may use the results of an approved test it received from an approved test publisher or assessment center to determine a student's eligibility to receive title IV, HEA programs funds if the test was independently administered and properly administered.

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Regulatory Language Format for Notice of Proposed Rulemaking:

PART 668 - STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1085, 1091, 1091b, 1092, 1094, 1099c, and 1099c-1, unless otherwise noted.

2. Section 668.32-(e) (2) is amended by removing "within 12 months before the date the student initially receives title IV, HEA program assistance,".

3. Section 668.151(a)(2) is amended by adding the words "it received from an approved test publisher or assessment center" after, "an approved test".