

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; or

(C) The school is not in a State.

(ii) Paragraph (b)(4)(i)(A) of this section does not apply to any loans originated by the school beginning—

(A) 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in that paragraph; or

(B) October 1, 2002.

(iii) Paragraph (b)(4)(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 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 shall follow the procedures for disbursing funds in 34 CFR 668.164.

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

(e) *Treatment of excess loan proceeds.* Before the disbursement of any Direct Subsidized or Direct Unsubsidized 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 shall reduce or eliminate the overaward by either—

(1) Using the student's Direct Unsubsidized, Direct PLUS, 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)

[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]

**§ 685.304 Counseling borrowers.**

(a) *Initial counseling.* (1) Except as provided in paragraph (a)(4) of this section, a school must conduct initial counseling prior to making the first disbursement of the proceeds of a Direct Subsidized or Direct Unsubsidized Loan to a borrower unless the student borrower has received a prior Direct Subsidized, Direct Unsubsidized, Federal Stafford, Federal Unsubsidized Stafford, or Federal SLS Loan.

(2) The counseling must be in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that an individual with knowledge of the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program approved for credit at the home institution, the school may provide the student borrower with written counseling materials prior to disbursing the loan proceeds.

(3) In conducting the initial counseling, the school must—

(i) Explain the use of a Master Promissory Note;

(ii) Emphasize to the borrower the seriousness and importance of the repayment obligation the student borrower is assuming;

(iii) Describe in forceful terms the likely consequences of default, including adverse credit reports, garnishment of wages, and litigation;

(iv) Provide the student borrower with general information with respect to the average indebtedness of student borrowers who have obtained Direct Subsidized or Direct Unsubsidized

**§ 685.304**

**34 CFR Ch. VI (7-1-01 Edition)**

Loans for attendance at that school or in the student borrower's program of study;

(v) Inform the student borrower as to the average anticipated monthly repayment for those student borrowers based on the average indebtedness provided under paragraph (a)(3)(iv) of this section.

(4) A school may adopt an alternative approach for initial counseling as part of the school's quality assurance plan described in §685.300(b)(9). If a school adopts an alternative approach, it is not required to meet the requirements of paragraphs (a)(1)–(3) of this section unless the Secretary determines that the alternative approach is not adequate for the school. The alternative approach must—

(i) Ensure that each student borrower subject to initial counseling under paragraph (a)(1) of this section is provided written counseling materials that contain the information described in paragraph (a)(3) of this section;

(ii) Be designed to target those student borrowers who are most likely to default on their repayment obligations and provide them more intensive counseling and support services; and

(iii) Include performance measures that demonstrate the effectiveness of the school's alternative approach. These performance measures must include objective outcomes, such as levels of borrowing, default rates, and withdrawal rates.

(5) A school that conducts initial counseling through interactive electronic means must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes initial counseling.

(6) The school must maintain documentation substantiating the school's compliance with this section for each student borrower.

(b) *Exit counseling.* (1) A school must conduct exit counseling with each Direct Subsidized or Direct Unsubsidized Loan borrower shortly before the student borrower ceases at least half-time study at the school.

(2) The counseling must be in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that an

individual with knowledge of the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program approved for credit at the home institution, the school may provide the student borrower with written counseling materials within 30 days after the student borrower completes the program.

(3) If a student borrower withdraws from school without the school's prior knowledge or fails to complete the exit counseling as required, the school must provide exit counseling either through interactive electronic means or by mailing written counseling materials to the student borrower at the student borrower's last known address within 30 days after the school learns that the student borrower has withdrawn from school or failed to complete the exit counseling as required.

(4) In conducting the exit counseling, the school must—

(i) Inform the student borrower of the average anticipated monthly repayment amount based on the student borrower's indebtedness or on the average indebtedness of student borrowers who have obtained Direct Subsidized or Direct Unsubsidized Loans for attendance at that school or in the student borrower's program of study;

(ii) Review for the student borrower available repayment options including the standard repayment, extended repayment, graduated repayment, and income contingent repayment plans, and loan consolidation;

(iii) Provide options to the student borrower concerning those debt-management strategies that the school determines would facilitate repayment by the student borrower;

(iv) Explain to the student borrower how to contact the party servicing the student borrower's Direct Loans;

(v) Meet the requirements described in paragraphs (a)(3)(ii) and (iii) of this section;

(vi) Review with the student borrower the conditions under which the student borrower may defer repayment or obtain a full or partial cancellation of a loan;

(vii) Review with the student borrower information on the availability of the Department's Student Loan Ombudsman's office; and

(viii) Require the student borrower to provide corrections to the school's records concerning name, address, social security number, references, and driver's license number and State of issuance, as well as the student borrower's expected permanent address, the address of the student borrower's next of kin, and the name and address of the student borrower's expected employer (if known). The school must provide this information to the Secretary within 60 days.

(5) A school that conducts exit counseling through interactive electronic means must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes exit counseling.

(6) The school must maintain documentation substantiating the school's compliance with this section for each student borrower.

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

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

[59 FR 61690, Dec. 1, 1994, as amended at 62 FR 63435, Nov. 28, 1997; 64 FR 58971, Nov. 1, 1999; 65 FR 65651, Nov. 1, 2000; 66 FR 34766, June 29, 2001]

**§ 685.305 Determining the date of a student's withdrawal.**

(a) Except as provided in paragraph (b) of this section, a school shall follow the procedures in §668.22(b) or (c), as applicable, for determining the student's date of withdrawal.

(b) For a student who does not return for the next scheduled term following a summer break, which includes any summer term(s) in which classes are offered but students are not generally required to attend, a school shall follow the procedures in §668.22(b) or (c), as applicable, for determining the student's date of withdrawal except that the school must determine the student's date of withdrawal no later than 30 days after the start of the next scheduled term.

(c) The school shall use the date determined under paragraph (a) or (b) of this section for the purpose of report-

ing to the Secretary the student's date of withdrawal and for determining when a refund or return of title IV, HEA program funds must be paid under §685.306.

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

[64 FR 59044, Nov. 1, 1999]

**§ 685.306 Payment of a refund or return of title IV, HEA program funds to the Secretary.**

(a) *General.* By applying for a Direct Loan, a borrower authorizes the school to pay directly to the Secretary that portion of a refund or return of title IV, HEA program funds from the school that is allocable to the loan. A school—

(1) Shall pay that portion of the student's refund or return of title IV, HEA program funds that is allocable to a Direct Loan to the Secretary; and

(2) Shall provide simultaneous written notice to the borrower if the school pays a refund or return of title IV, HEA program funds to the Secretary on behalf of that student.

(b) *Determination, allocation, and payment of a refund or return of title IV, HEA program funds.* In determining the portion of a student's refund or return of title IV, HEA program funds that is allocable to a Direct Loan, the school shall follow the procedures established in 34 CFR 668.22 for allocating and paying a refund or return of title IV, HEA program funds that is due.

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

[64 FR 59044, Nov. 1, 1999; 65 FR 37045, June 13, 2000]

**§ 685.307 Withdrawal procedure for schools participating in the Direct Loan Program.**

(a) A school participating in the Direct Loan Program may withdraw from the program by providing written notice to the Secretary.

(b) A participating school that intends to withdraw from the Direct Loan Program shall give at least 60 days notice to the Secretary.

(c) Unless the Secretary approves an earlier date, the withdrawal is effective on the later of—

(1) 60 days after the school notifies the Secretary; or

(2) The date designated by the school.

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