

**§ 673.5**

- (iii) Trade/Technical.
- (iv) Art Schools.
- (v) Other Proprietary Institutions.
- (vi) Non-Proprietary Institutions.

(2) *Payments to institutions.* The Secretary allocates funds for a specific period of time. The Secretary provides an institution its allocation in accordance with the payment methods described in 34 CFR 668.162.

(3) *Unexpended funds.* (i) If an institution returns more than 10 percent of its Federal Perkins Loan, FWS, or FSEOG allocation for an award year, the Secretary reduces the institution's allocation for that program for the second succeeding award year by the dollar amount returned.

(ii) The Secretary may waive the provision of paragraph (d)(3)(i) of this section for a specific institution if the Secretary finds that enforcement would be contrary to the interests of the program.

(iii) The Secretary considers enforcement of paragraph (d)(3)(i) of this section to be contrary to the interest of the program only if the institution returns more than 10 percent of its allocation due to circumstances beyond the institution's control that are not expected to recur.

(e) *Anticipated collections of Federal Perkins Loan funds.* (1) For the purposes of calculating an institution's share of any excess allocation of Federal Perkins Loan funds, an institution's anticipated collections are equal to the amount that was collected by the institution during the second year preceding the beginning of the award period multiplied by 1.21.

(2) The Secretary may waive the provision of paragraph (e)(1) of this section for any institution that has a cohort default rate that does not exceed 7.5 percent.

(f) *Authority to expend FWS funds.* Except as specifically provided in 34 CFR 675.18 (b), (c), and (f), an institution may not use funds allocated or reallocated for an award year—

(1) To meet FWS wage obligations incurred with regard to an award of FWS employment made for any other award year; or

(2) To satisfy any other obligation incurred after the end of the designated award year.

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(g) *Authority to expend FSEOG funds.* Except as specifically provided in 34 CFR 668.164(g), an institution shall not use funds allocated or reallocated for an award year—

(1) To make FSEOG disbursements to students in any other award year; or

(2) To satisfy any other obligation incurred after the end of the designated award year.

(Authority: 20 U.S.C. 1070b-3 and 1087bb, 42 U.S.C. 2752)

**§ 673.5 Overaward.**

(a) *Overaward prohibited*—(1) *Federal Perkins Loan and FSEOG Programs.* An institution may only award or disburse a Federal Perkins loan or an FSEOG to a student if that loan or the FSEOG, combined with the other resources the student receives, does not exceed the student's financial need.

(2) *FWS Program.* An institution may only award FWS employment to a student if the award, combined with the other resources the student receives, does not exceed the student's financial need.

(b) *Awarding and disbursement.* (1) When awarding and disbursing a Federal Perkins loan or an FSEOG or awarding FWS employment to a student, the institution shall take into account those resources it—

(i) Can reasonably anticipate at the time it awards Federal Perkins Loan funds, an FSEOG, or FWS funds to the student;

(ii) Makes available to its students; or

(iii) Otherwise knows about.

(2) If a student receives resources at any time during the award period that were not considered in calculating the Federal Perkins Loan amount or the FWS or FSEOG award, and the total resources including the loan, the FSEOG, or the prospective FWS wages exceed the student's need, the overaward is the amount that exceeds need.

(c) *Resources.* (1) Except as provided in paragraphs (c)(2), (c)(3), and (c)(4) of this section, the Secretary considers that "resources" include, but are not limited to, any—

(i) Funds a student is entitled to receive from a Federal Pell Grant;

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(ii) William D. Ford Federal Direct Loans;

(iii) Federal Family Education Loans;

(iv) Long-term loans, including Federal Perkins loans made by the institution;

(v) Grants, including FSEOGs, State grants, and ROTC subsistence allowances;

(vi) Scholarships, including athletic scholarships and ROTC scholarships;

(vii) Waivers of tuition and fees;

(viii) Fellowships or assistantships;

(ix) Veterans educational benefits paid under Chapters 30, 31, 32, and 35 of title 38 of the United States Code;

(x) National service education awards or post-service benefits paid for the cost of attendance under title I of the National and Community Service Act of 1990 (AmeriCorps);

(xi) Net earnings from need-based employment; and

(xii) Insurance programs for the student's education.

(2) The Secretary does not consider as a resource—

(i) Any portion of the resources described in paragraph (c)(1) of this section that are included in the calculation of the student's expected family contribution (EFC); and

(ii) Earnings from non-need-based employment.

(3) The institution may treat a Federal Direct PLUS Loan, a Federal PLUS Loan, a Federal Direct Unsubsidized Stafford/Ford Loan, a Federal Unsubsidized Stafford Loan, or a State-sponsored or private loan as a substitute for a student's EFC. However, if the sum of the loan amounts received exceeds the student's EFC, the excess is a resource.

(4) The institution may exclude as a resource any portion of a Federal Direct Stafford/Ford Loan (Direct Subsidized Loan) and subsidized Federal Stafford Loan that is equal to or less than the amount of a student's veterans education benefits paid under Chapter 30 of title 38 of the United States Code (Montgomery GI Bill) and national service education awards or post service benefits paid for the cost of attendance under title I of the National and Community Service Act of 1990 (AmeriCorps).

(d) *Treatment of resources in excess of need—General.* An institution shall take the following steps if it learns that a student has received additional resources not included in the calculation of Federal Perkins Loan, FWS, or FSEOG eligibility that would result in the student's total resources exceeding his or her financial need by more than \$300:

(1) The institution shall decide whether the student has increased financial need that was unanticipated when it awarded financial aid to the student. If the student demonstrates increased financial need and the total resources do not exceed this increased need by more than \$300, no further action is necessary.

(2) If the student's total resources still exceed his or her need by more than \$300, as recalculated pursuant to paragraph (d)(1) of this section, the institution shall cancel any undisbursed loan or grant (other than a Federal Pell Grant).

(3) *Federal Perkins loan and FSEOG overpayment.* If the student's total resources still exceed his or her need by more than \$300, after the institution takes the steps required in paragraphs (d)(1) and (2) of this section, the institution shall consider the amount by which the resources exceed the student's financial need by more than \$300 as an overpayment.

(e) *Termination of FWS employment.* (1) An institution may fund a student's FWS employment with FWS funds only until the amount of the FWS award has been earned or until the student's financial need, as recalculated under paragraph (d)(1) of this section, is met.

(2) Notwithstanding the provisions of paragraph (e)(1) of this section, an institution may provide additional FWS funding to a student whose need has been met until that student's cumulative earnings from all need-based employment occurring subsequent to the time his or her financial need has been met exceed \$300.

(f) *Liability for and recovery of Federal Perkins loans and FSEOG overpayments.* (1) A student is liable for any Federal Perkins loan or FSEOG overpayment made to him or her.

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(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) 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 a written notice to the student requesting repayment of the overawarded funds. 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 the student ineligible for further title IV aid until final resolution of the overpayment.

(4) 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 the student fails to repay an FSEOG overpayment or make arrangements, satisfactory to the holder of the overpayment debt, to pay the FSEOG overpayment 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 the Secretary, identifying the Federal share of the FSEOG overpayment, the student's name, most recent address, telephone number, and any other relevant information. After notifying the Secretary under this section, the institution need make no further recovery efforts of FSEOG overpayments.

(ii) If an institution fails in its attempt to collect the overpayment and the Federal share of the FSEOG over-

payment is less than \$25.00, the institution need make no further recovery efforts of the FSEOG overpayment.

(Approved by the Office of Management and Budget under control number 1845-0019)

(Authority: 20 U.S.C. 1070b-1, 1087dd, and 1087hh, 42 U.S.C. 2753)

[61 FR 60393, Nov. 17, 1996, as amended at 64 FR 58292, Oct. 28, 1999]

### § 673.6 Coordination with BIA grants.

(a) *Coordination of BIA grants with Federal Perkins loans, FWS awards, or FSEOGs.* To determine the amount of a Federal Perkins loan, FWS compensation, or an FSEOG for a student who is also eligible for a Bureau of Indian Affairs (BIA) education grant, an institution shall prepare a package of student aid—

(1) From resources other than the BIA education grant the student has received or is expected to receive; and

(2) That is consistent in type and amount with packages prepared for students in similar circumstances who are not eligible for a BIA education grant.

(b)(1) The BIA education grant, whether received by the student before or after the preparation of the student aid package, supplements the student aid package specified in paragraph (a) of this section.

(2) No adjustment may be made to the student aid package as long as the total of the package and the BIA education grant is less than the institution's determination of that student's financial need.

(c)(1) If the BIA education grant, when combined with other aid in the package, exceeds the student's need, the excess must be deducted from the other assistance (except for Federal Pell Grants), not from the BIA education grant.

(2) The institution shall deduct the excess in the following sequence: loans, work-study awards, and grants other than Federal Pell Grants. However, the institution may change the sequence if requested to do so by a student and the institution believes the change benefits the student.

(d) To determine the financial need of a student who is also eligible for a BIA education grant, a financial aid