DEPARTMENT OF EDUCATION

34 CFR Parts 668, 673, 674, 675, 676, and 690

RIN 1840–AC34

Student Assistance General Provisions; General Provisions for the Federal Perkins Loan Program, Federal Work-Study Programs, Federal Supplemental Educational Opportunity Grant Program, and Federal Pell Grant Program

AGENCY: Department of Education.

ACTION: Final Regulations.

SUMMARY: The Secretary amends the regulations governing the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended (title IV, HEA programs). These programs include the campus-based programs (Federal Perkins Loan, Federal Work-Study (FWS), and Federal Supplemental Educational Opportunity Grant (FSEOG) programs and the Federal Pell Grant Program. These regulations, which eliminate duplicate provisions for the student financial assistance programs and consolidate common provisions for the campus-based programs, are part of a planned series of regulatory reform and relief measures for the title IV, HEA programs. The Secretary made these changes in response to the President's Regulatory Reform Initiative.

EFFECTIVE DATE: These regulations take effect on July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Nancy Adams, U.S. Department of Education, 600 Independence Avenue SW, Regional Office Building 3, Room 3053, Washington, DC 20202–5447. Telephone: (202) 708–4690.

1. For the Federal Perkins Loan Program: Gail H. McLarnon, U.S. Department of Education, 600 Independence Avenue, SW, Regional Office Building 3, Room 3053, Washington, DC 20202–5447. Telephone: (202) 708–8242.

2. For the FWS and FSEOG programs: Richard P. Coppage, U.S. Department of Education, 600 Independence Avenue, SW, Regional Office Building 3, Room 3053, Washington, DC 20202–5447. Telephone: (202) 708–4690.

3. For the Federal Pell Grant Program: Daniel J. Sullivan, U.S. Department of Education, 600 Independence Avenue, SW, Regional Office Building 3, Room 3053, Washington, DC 20202–5447. Telephone: (202) 708–4607.

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SUPPLEMENTARY INFORMATION: On March 4, 1995, the President directed every Federal agency to review its rules and procedures to reduce regulatory and paperwork burden and directed Federal agencies to eliminate or revise those regulations that are outdated or otherwise in need of reform. Responding to the President's Regulatory Reform Initiative, the Secretary announced plans to eliminate or revise 93 percent of the Department's regulations. To launch the Department's reinvention effort, the Secretary published a notice in the May 23, 1995 Federal Register (60 FR 27223–27226), eliminating more than 30 percent of the Department's regulations, primarily in areas not related to student financial assistance.

The Secretary is conducting a page-by-page review of all student financial assistance regulations to identify those that should be eliminated or improved. The Secretary is also considering developing proposals for statutory amendments to eliminate unnecessary administrative burden.

As part of his response to the President's Regulatory Reinvention Initiative, on September 19, 1996, the Secretary published a notice of proposed rulemaking (NPRM) for parts 668, 673, 674, 675, 676, and 690 in the Federal Register (61 FR 49389–49396). The NPRM included a discussion of the proposed changes that will not be repeated here. The following list summarizes those changes and identifies the pages of the preamble to the NPRM on which the discussion can be found.

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

Subpart A—Purpose and Scope

The Secretary proposed to create a new part 673 of 34 CFR to consolidate the common provisions of the Federal Perkins Loan Program—part 674, the FWS Program—part 675, and the FSEOG Program—part 676 of program regulations (page 49390).

Subpart B—General Provisions for the Federal Perkins Loan, FWS, and FSEOG Programs

Sections 674.3, 675.3, and 676.3 Application

The Secretary proposed to delete duplicate provisions from parts 674, 675, and 676 and consolidate the application procedures into the new part 673 under § 673.3 (page 49390).

Sections 674.4, 675.4, and 676.4 Allocation and Reallocation

The Secretary proposed to delete duplicate provisions from parts 674, 675, and 676 and consolidate the allocation and reallocation provisions into the new part 673 under § 673.4 (page 49390).

Sections 674.14, 675.14, and 676.14 Overaward

The Secretary proposed to delete duplicate provisions from parts 674, 675, and 676 and consolidate the overaward provisions for the campus-based programs into the new part 673 under § 673.5 (page 49390–49391).

Sections 674.15, 675.15, 676.15 Coordination with BIA Grants

The Secretary proposed to delete duplicate provisions from parts 674, 675, and 676 and consolidate the provisions into the new part 673 under § 673.6 (page 49391).

Sections 674.18, 675.18, and 676.18 Use of Funds

The Secretary proposed to delete duplicate formulas and the ''allowable use'' provisions from parts 674, 675, and 676 and present them in the new part 673 under § 673.7 with a new heading of *Administrative cost allowance* (page 49391).

Federal Pell Grant Program

There were no major proposed changes to the Federal Pell Grant Program. However, the Secretary proposed some minor technical changes as described in the following paragraphs.

Section 690.2 General Definitions

The Secretary proposed to clarify the definition of ''Annual award'' in § 690.2(c) and to remove the definition of ''Comparable State income tax return'' because it is obsolete (page 49391).

Subpart B—Application Procedures for Determining Expected Family Contribution (EFC).

Section 690.14 Request for Recalculation of Expected Family Contribution Because of Clerical or Arithmetic Error

The Secretary proposed to amend § 690.14 by revising the heading of the section and by clarifying paragraph (b)(1) to provide an additional reason for recalculating a student's EFC that was

inadvertently left out of earlier regulations (page 49391).

Subpart F—Determination of Federal Pell Grant Awards.

Section 690.61 Submission Process and Deadline for a Student Aid Report or Institutional Student Information Record

The Secretary proposed to amend § 690.61(b)(2) by deleting the June 30 deadline date for a student to submit the required documents. Due to faster electronic data processing, a student now has an extended period of time to submit the required documents (page 49391).

Subpart G—Administration of Grant Payments.

Section 690.75 Determination of Eligibility for Payment

The Secretary proposed to revise § 690.75(e) by deleting ''the family contribution amount of $3,000'' and adding ''family contribution amount at least equal to the maximum authorized award amount for the award year'' to reflect the changes to the maximum award amount for each award year (page 49391).

Section 690.78 Method of Disbursement—by Check or Credit to a Student's Account.

The Secretary proposed to amend § 690.78(c)(2), (c)(3), and (c)(4) to allow a student 20 days instead of 15 days after the student's enrollment ends in an award year to pick up a Pell Grant disbursement for that award year (page 49391).

Section 690.81 Fiscal Control and Fund Accounting Procedures

The Secretary proposed to delete § 690.81(c) because the provisions contained in that paragraph duplicate provisions in § 668.161(b) of the Student Assistance General Provisions regulations, which cover all of the title IV programs (page 49391).

Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

These regulations address the National Education Goals that call for increasing the rate at which students graduate from high school and pursue high quality postsecondary education and for supporting life-long learning.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM several parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since the publication of the NPRM follows. Please note that this section addresses only the proposed regulations on which substantive comments were received or regulations that have been substantively changed as a result of the Secretary's review.

Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Part 673

Comments: Seven commenters expressed support for the Secretary's efforts to eliminate duplicate provisions and to consolidate common procedures in the campus-based program regulations into one section.

Discussion: The Secretary is encouraged by the expressions of support from the public for the activities that are part of the President's Regulatory Reinvention Initiative.

Changes: None.

Section 673.1 Purpose

Comments: One organization recommended that the Secretary revise the definition of the Federal Perkins Loan Program in paragraph (a) to refer to neediest undergraduate and graduate students instead of needy undergraduate and graduate students.

Discussion: The Secretary believes that the definition is consistent with §§ 461(a) and 463(a)(9) of the HEA. Section 674.10, which describes the selection of students for loans, reflects these statutory requirements while giving institutions the flexibility to define exceptional need within the unique context of their postsecondary population. It is the Secretary's intent to provide flexibility and reduce burden for institutions, not to add new restrictions.

Changes: None.

Section 673.5 Overaward

Comments: One commenter felt strongly that overawards in the Federal Perkins Loan Program should be treated the same as overawards in the Federal Family Education Loan (FFEL) Program and the William D. Ford Federal Direct Loan Program. This commenter believes that requiring students to repay overawards immediately rather than adding the overaward to the loan balance to be repaid under standard loan repayment terms is burdensome and inconsistent with the treatment of overawards in the FFEL and Direct Loan programs.

Discussion: The Secretary recognizes that the treatment of overawards in the Federal Perkins Loan Program is different from the treatment of overawards in the FFEL and Direct Loan programs. However, the Federal Perkins Loan Program is unique in that loans made under this program are made from a revolving fund that depends on contributions from a Federal Capital Contribution, the institutions own matching funds, and the repayment of principal and interest back into the fund from Federal Perkins Loan borrowers. The immediate repayment of overawards ensures that the Federal Perkins Loan fund is not rapidly depleted and that funds are available for future Federal Perkins Loan borrowers.

Changes: None.

Section 673.7 Administrative Cost Allowance

Comment: One organization commented that § 673.7(b) is an area in which institutions should be afforded flexibility in using their own procedures. Institutions vary on the time-frames within which they book entries on administrative cost allowances (ACA) and, therefore, should be given extra time to reflect these bookings in their records. The commenter believes that a six-month window of time after the award year ends to reflect adjustments and additional entries of ACA against their Perkins funds would provide institutions flexibility to use their own procedures.

Discussion: Neither the requirement that institutions charge their ACA against program expenditures made during an award year, nor the requirement that institutions charge their ACA during the same award year in which the expenditures for these costs were made under the Federal Perkins Loan Program is a new policy.

These requirements were previously contained in § 674.18, 675.18, and 676.18. The Secretary believes allowing institutions that administer the campus-based programs to report expenditures during a six-month window after an award year has ended would unnecessarily complicate the program's financial management and accounting procedures. However, adjustments may be made during the FISAP editing process, as needed.

Changes: None.

Federal Pell Grant Program

Section 690.78 Method of Disbursement—by Check or Credit to a Student's Account

Comments: One commenter recommended that the Secretary move the treatment of what the commenter described as ''late disbursements'' from § 690.78(c)(1) through (c)(5) to § 668.164 of the General Provisions regulations. The commenter also believes that §§ 690.78(c)(2), (c)(3), and (c)(4) are in conflict with the proposed late disbursement provisions in § 668.164(g).

Discussion: The Secretary does not believe that § 690.78 (c)(2), (c)(3), and (c)(4) are in conflict with the late disbursement provisions in § 668.164(g). The late disbursement provisions in § 668.164(g) apply only to ineligible students who are ineligible solely because they withdraw or are no longer enrolled at an institution. The provisions in § 690.78(c)(2), (c)(3), and (c)(4) deal with eligible students as well as ineligible students. The latter provisions also relate to the ability of a student to claim a Federal Pell Grant award rather than the making of late disbursements to students. However, the Secretary agrees with the commenter that it would be useful in § 690.78(c) to reference the late disbursement provisions in § 668.164.

Changes: Section 690.78(c)(6) is revised to reference the late disbursement provisions in § 668.164.

Additional Changes

Section 675.26 FWS Federal Share Limitations

The Secretary is providing for an additional waiver of the FWS institutional-share requirement in § 675.26. The Secretary will authorize a Federal share of 100 percent of the compensation earned by a student during an award year if all of the following criteria are met—

1. The work performed by the student is for the institution itself, for a Federal, State, or local public agency, or for a private nonprofit organization; and

2. The student is employed as a reading tutor for children who are in preschool through elementary school.

This regulatory change will provide an institution with the flexibility needed to respond to the President's ''America Reads'' Challenge, which will mobilize resources to ensure that all children can read independently by the end of the third grade. Forty percent of children are not reading well enough by the end of third grade. Children who cannot read early and well are hampered at the very start of their education and for the rest of their lives. This effort to tutor young children in reading can unlock the children's potential to learn and empower them throughout their lives. The investment in our youth is an investment in this country's future.

The Secretary strongly encourages all institutions to place FWS students as reading tutors for children. The placement of students in FWS jobs as reading tutors for children is an important way for institutions to meet the community service expenditure requirement under the FWS Program, serve the needs of the community, and give the FWS students a rewarding and enriching experience. The programs that provide this reading tutoring for children may take place during the children's school hours; or after school, on weekends, or in the summer, in order to extend the learning time. The institution may construct its own reading tutor program or become involved with existing community programs. The new waiver of the FWS institutional-share requirement provided in § 675.26 does not require the institution to make a request for the waiver. Also, the institution has the option of continuing to provide an institutional share and determining the amount of that share.

While institutions will not receive increased FWS allocations for this initiative and will be expected to meet the 100 percent Federal share from their normal FWS allocations, the Secretary notes that many institutions will receive substantially increased FWS allocations for the 1997–98 award year due to the higher FWS appropriations for FY 97. The Secretary believes that these increased FWS allocations will enable many institutions to support this initiative actively by providing 100 percent Federal share funding for the employment of FWS students as reading tutors.

It is also important to note that the Secretary continues the current exception that authorizes a Federal share of 100 percent of the compensation earned by students enrolled at institutions designated as an eligible institution under the Strengthening Institutions Program, the Strengthening Historically Black Colleges and Universities Program, or the Strengthening Historically Black Graduate Institutions Program.

Executive Order 12866

1. Assessment of Costs and Benefits

These final regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the final regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering this program effectively and efficiently.

Thus, in assessing the potential costs and benefits—both quantitative and qualitative—of these final regulations, the Secretary has determined that the benefits of the final regulations justify the costs.

Potential costs and benefits of the final regulations are discussed elsewhere in this preamble.

Paperwork Reduction Act of 1995

These regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Waiver of Proposed Rulemaking

In accordance with section 437 of the General Education Provisions Act (20 U.S.C. 1232) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, revising § 675.26(d) will increase institutional flexibility and help to meet an important educational need for reading tutors without imposing any burden on the affected parties. The Secretary is specifically authorized under section 443(b)(5) of the Higher Education Act of 1965, as amended (42 U.S.C. 2753(b)(5)) to determine, through the promulgation of regulations, that the Federal share of compensation for FWS students may exceed 75 percent if required in furtherance of the purposes of the program. The Secretary has made such a determination in this case. For these reasons, the Secretary has determined, pursuant to 5 U.S.C. 553(b)(B), that public comment on the amendment to § 675.26(d) is unnecessary and contrary to the public interest.

Intergovernmental Review

Some of these programs are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

The Federal Perkins Loan, Federal Work-Study, and Federal Pell Grant programs are not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79.

Assessment of Educational Impact

In the NPRM, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed regulations and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Loan programs—education, Grant programs—education, Student aid.

34 CFR Part 673

Loan programs—education, Grant programs—education, Student aid.

34 CFR Part 674

Loan programs—education, Student aid.

34 CFR Part 675

Loan programs—education, Student aid.

34 CFR Part 676

Grant programs—education, Student aid.

34 CFR 690

Grant programs—education, Student aid.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; and 84.063 Federal Pell Grant Program.)

Dated: November 21, 1996.

Richard W. Riley,

Secretary of Education.

The Secretary amends chapter VI of Title 34 of the Code of Federal Regulations as follows:

1. A new part 673 is added to read as follows:

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

Subpart A—Purpose and Scope

Sec.
673.1 Purpose.
673.2 Applicability of regulations.

Subpart B—General Provisions for the Federal Perkins Loan, FWS, and FSEOG programs

673.3 Application.
673.4 Allocation and reallocation.
673.5 Overaward.
673.6 Coordination with BIA grants.
673.7 Administrative cost allowance.

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

Subpart A—Purpose and Scope

§ 673.1 Purpose.

This part governs the following three programs authorized by title IV of the Higher Education Act of 1965, as amended (HEA) that participating institutions administer:

(a) The Federal Perkins Loan Program, which encourages the making of loans by institutions to needy undergraduate and graduate students to help pay for their cost of education.

(b) The Federal Work-Study (FWS) Program, which encourages the part-time employment of undergraduate and graduate students who need the income to help pay for their cost of education and which encourages FWS recipients to participate in community service activities.

(c) The Federal Supplemental Educational Opportunity Grant (FSEOG) Program, which encourages the providing of grants to exceptionally needy undergraduate students to help pay for their cost of education.

(Authority: 20 U.S.C. 421–429, 1070b–1070b–3, and 1087aa–1087ii; 42 U.S.C. 2751–2756b)

§ 673.2 Applicability of regulations.

The participating institution is responsible for administering these programs in accordance with the regulations in this part and the applicable program regulations in 34 CFR parts 674, 675, and 676.

(Authority: 20 U.S.C. 421–429, 1070b–1070b–3, and 1087aa–1087ii; 42 U.S.C. 2751–2756b)

Subpart B—General Provisions for the Federal Perkins Loan, FWS, and FSEOG programs

§ 673.3 Application.

(a) To participate in the Federal Perkins Loan, FWS, or FSEOG programs, an institution shall file an application before the deadline date established annually by the Secretary through publication of a notice in the Federal Register.

(b) The application for the Federal Perkins Loan, FWS, and FSEOG programs must be on a form approved by the Secretary and must contain the information needed by the Secretary to determine the institution's allocation or reallocation of funds under sections 462, 442, and 413D of the HEA, respectively.

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

§ 673.4 Allocation and reallocation.

(a) *Allocation and reallocation of Federal Perkins Loan funds.* (1) The Secretary allocates Federal capital contributions to institutions participating in the Federal Perkins Loan Program in accordance with section 462 of the HEA.

(2) The Secretary reallocates Federal capital contributions to institutions participating in the Federal Perkins Loan Program by—

(i) Reallocating 80 percent of the total funds available in accordance with section 462(j) of the HEA; and

(ii) Reallocating 20 percent of the total funds available in a manner that best carries out the purposes of the Federal Perkins Loan Program.

(b) *Allocation and reallocation of FWS funds.* The Secretary allocates and reallocates funds to institutions participating in the FWS Program in accordance with section 442 of the HEA.

(c) *Allocation and reallocation of FSEOG funds.* (1) The Secretary allocates funds to institutions participating in the FSEOG program in accordance with section 413D of the HEA.

(2) The Secretary reallocates funds to institutions participating in the FSEOG Program in a manner that best carries out the purposes of the FSEOG Program.

(d) *General allocation and reallocation.*—(1) *Categories.* As used in section 462 (Federal Perkins Loan Program), section 442 (FWS Program), and section 413D (FSEOG Program) of the HEA, ''Eligible institutions offering comparable programs of instruction'' means institutions that are being compared with the applicant institution and that fall within one of the following six categories:

(i) Cosmetology.
(ii) Business.
(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.

(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 paragraph (c)(2) 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;

(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 benefits;

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

(xi) 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.

(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.

(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 overpayment 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 1840–0535)

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

§ 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 administrator is encouraged to consult with area officials in charge of BIA postsecondary financial aid.

(Authority: 20 U.S.C. 1070b–1 and 1087dd; 42 U.S.C. 2753)

§ 673.7 Administrative cost allowance.

(a) An institution participating in the Federal Perkins Loan, FWS, or FSEOG programs is entitled to an administrative cost allowance for an award year if it advances funds under the Federal Perkins Loan Program, provides FWS employment, or awards grants under the FSEOG Program to students in that year.

(b) An institution may charge the administrative cost allowance calculated in accordance with paragraph (c) of this section for an award year against-(1) The Federal Perkins Loan Fund, if the institution advances funds under the Federal Perkins Loan Program to students in that award year;

(2) The FWS allocation, if the institution provides FWS employment to students in that award year; and

(3) The FSEOG allocation, if the institution awards grants to students under the FSEOG program in that award year.

(c) For any award year, the amount of the administrative costs allowance equals—

(1) Five percent of the first $2,750,000 of the institution's total expenditures to students in that award year under the FWS, FSEOG, and the Federal Perkins Loan programs; plus

(2) Four percent of its expenditures to students that are greater than $2,750,000 but less than $5,500,000; plus

(3) Three percent of its expenditures to students that are $5,500,000 or more.

(d) The institution shall not include, when calculating the allowance in paragraph (c) of this section, the amount of loans made under the Federal Perkins Loan Program that it assigns during the award year to the Secretary under section 463(a)(6) of the HEA.

(e) An institution shall use its administrative costs allowance to offset its cost of administering the Federal Pell Grant, FWS, FSEOG, and Federal Perkins Loan programs. Administrative costs also include the expenses incurred for carrying out the student consumer information services requirements of Subpart D of the Student Assistance General Provisions regulations, 34 CFR Part 668.

(f) An institution may use up to 10 percent of the administrative costs allowance, as calculated under paragraph (c) of this section, that is attributable to the institution's expenditures under the FWS program to pay the administrative costs of conducting its program of community service. These costs may include the costs of—

(1) Developing mechanisms to assure the academic quality of a student's experience;

(2) Assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives; and

(3) Collaborating with public and private nonprofit agencies and programs assisted under the National and Community Service Act of 1990 in the

planning, development, and administration of these programs.

(g) If an institution charges any administrative cost allowance against its Federal Perkins Loan Fund, it must charge these costs during the same award year in which the expenditures for these costs were made.

(Authority: 20 U.S.C. 1070b–2, 1087cc, and 1096, 42 U.S.C. 2753)

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

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

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099c, and 1141, unless otherwise noted.

§ 668.1 [Amended]

3. Section 668.1, paragraph (c)(4) is amended by adding ''673 and'' before ''676'' and adding an ''s'' to the word ''part''; paragraph (c)(10) is amended by adding ''673 and'' before ''675'' and adding an ''s'' to the word ''part''; and paragraph (c)(12) is amended by adding ''673 and'' before ''674'' and adding an ''s'' to the word ''part''.

§ 668.2 [Amended]

4. Section 668.2, in paragraph (b) amend the definition of ''Campus-based programs'' in paragraph (1) by adding ''673 and'' before ''674'' and adding an ''s'' to the word ''part''; in paragraph (2) add ''673 and'' before ''675'' and add an ''s'' to the word ''part''; and in paragraph (3) add ''673 and'' before ''676'' and add an ''s'' to the word ''part''.

§ 668.22 [Amended]

5. Section 668.22, paragraph (g)(3)(i) is amended by removing ''674, 675, 676,''.

PART 674—FEDERAL PERKINS LOAN PROGRAM

6. The authority citation for part 674 continues to read as follows:

Authority: 20 U.S.C. 1087aa–1087hh and 20 U.S.C. 421–429, unless otherwise noted.

§ 674.3 [Removed]

7. Section 674.3 is removed and reserved.

§ 674.4 [Removed]

8. Section 674.4 is removed and reserved.

§ 674.8 [Amended]

9. Section 674.8 is amended by removing in paragraph (b)(2), ''§ 674.18(b)'' and adding in its place ''34 CFR 673.7''.

§ 674.14 [Removed]

10. Section 674.14 is removed and reserved.

§ 674.15 [Removed]

11. Section 674.15 is removed and reserved.

§ 674.18 [Amended]

12. Section 674.18 is amended by removing paragraph (b) and by redesignating paragraph (c) as paragraph (b).

PART 675—FEDERAL WORK-STUDY PROGRAM

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

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

§ 675.3 [Removed]

14. Section 675.3 is removed and reserved.

§ 675.4 [Removed]

15. Section 675.4 is removed and reserved.

§ 675.14 [Removed]

16. Section 675.14 is removed and reserved.

§ 675.15 [Removed]

17. Section 675.15 is removed and reserved.

§ 675.18 [Amended]

18. Section 675.18 is amended by removing paragraph (b) and by redesignating paragraphs (c), (d), (e), (f), (g), and (h) as paragraphs (b), (c), (d), (e), (f), and (g), respectively.

19. Section 675.26 is amended by revising paragraph (d) to read as follows:

§ 675.26 FWS Federal Share Limitations.

* * * * *

(d) For each award year, the Secretary authorizes a Federal share of 100 percent of the compensation earned by a student under this part if the work performed by the student is for the institution itself, for a Federal, State or local public agency, or for a private nonprofit organization, and

(1) The institution in which the student is enrolled—

(i) Is designated as an eligible institution under the Strengthening Institutions program (34 CFR part 607), the Strengthening Historically Black Colleges and Universities program (34 CFR part 608), or the Strengthening Historically Black Graduate Institutions program (34 CFR part 609); and

(ii) Requests that increased Federal share as part of its regular FWS funding application for that year; or

(2) The student is employed as a reading tutor for children who are in preschool through elementary school.

§ 675.49 [Amended]

20. Section 675.49 is amended by adding the words ''34 CFR part 673 and'' before the words ''this part 675''.

PART 676—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

21. The authority citation for part 676 continues to read as follows:

Authority: 20 U.S.C. 1070b–1070b–3, unless otherwise noted.

§ 676.3 [Removed]

22. Section 676.3 is removed and reserved.

§ 676.4 [Removed]

23. Section 676.4 is removed and reserved.

§ 676.14 [Removed]

24. Section 676.14 is removed and reserved.

§ 676.15 [Removed]

25. Section 676.15 is removed and reserved.

§ 676.16 [Amended]

26. Section 676.16 is amended by removing in paragraph (e)(1) and (e)(2) ''(f)'' and adding, in its place, ''(e)''.

§ 676.18 [Amended]

27. Section 676.18 is amended by removing paragraph (b) and by redesignating paragraph (c) as paragraph (b).

PART 690—FEDERAL PELL GRANT PROGRAM

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

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

29. Section 690.2, paragraph (c) is amended by removing the definition of ''Comparable State income tax return'' and by revising the definition of ''Annual award'' to read as follows:

§ 690.2 General definitions.

* * * * *

(c) * * *

Annual award: The Federal Pell Grant award amount a full-time student would receive under the Payment Schedule for a full academic year in an award year, and the amount a three-quarter-time, half-time, and less-than-half-time student would receive under the appropriate Disbursement Schedule for being enrolled in that enrollment status

for a full academic year in an award year.

* * * * *

30. Section 690.10(b) is revised to read as follows:

§ 690.10 Administrative cost allowance to participating schools.

* * * * *

(b) All funds an institution receives under this section must be used solely to pay the institution's cost of administering the Federal Pell Grant, Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant programs.

* * * * *

§ 690.12 [Amended]

31. Section 690.12(b)(1) is amended by removing ''a copy of''.

32. Section 690.13 is revised to read as follows:

§ 690.13 Notification of expected family contribution.

The Secretary sends a student's application information and EFC as calculated by the central processor to the student on an SAR and allows each institution designated by the student to obtain an ISIR for that student.

(Approved by the Office of Management and Budget under control number 1840–0681)

(Authority: 20 U.S.C. 1070a)

33. Section 690.14 is amended by removing paragraphs (b)(1) and (b)(2); by redesignating paragraph (b)(3) introductory text as paragraph (c) introductory text; by redesignating paragraph (b)(3)(i) as paragraph (c)(1); by redesignating paragraph (b)(3)(ii) as paragraph (c)(2); by redesignating paragraph (b)(4) as paragraph (d); and by revising the heading and paragraphs (a) and (b) to read as follows:

§ 690.14 Applicant's request to recalculate expected family contribution because of a clerical or arithmetic error or the submission of inaccurate information.

(a) An applicant may request that the Secretary recalculate his or her expected family contribution if—

(1) He or she believes a clerical or arithmetic error has occurred; or

(2) The information he or she submitted was inaccurate when the application was signed.

(b) The applicant shall request that the Secretary make the recalculation described in paragraph (a) of this section by—

(1) Having his or her institution transmit that request to the Secretary under EDE; or

(2) Sending to the Secretary an approved form, certified by the student, and one of the student's parents if the student is a dependent student.

* * * * *

34. Section 690.61 is amended by revising paragraphs (a)(1)(ii) and (b)(2) to read as follows:

§ 690.61 Disbursement conditions and deadlines.

(a) * * *

(1) * * *

(ii) The institution obtains a valid ISIR for the student.

* * * * *

(b) * * *

(2) By the deadline date established by the Secretary through publication of a notice in the Federal Register.

* * * * *

§ 690.75 [Amended]

35. Section 690.75 (a)(2) is amended by adding ''in an eligible program'' after ''enrolled''; and paragraph (e), introductory text is amended by removing the phrase ''an expected family contribution of at least $3,000'' and adding, in its place, ''an expected family contribution amount at least equal to the maximum authorized award amount for the award year''.

36. In Section 690.78 paragraph (c)(2) is amended by removing ''15'' and adding, in its place, ''20''; paragraph (c)(3) is amended by removing ''15'' and adding, in its place, ''20''; paragraph (c)(4) is amended by removing ''15'' and adding, in its place, ''20''; and a new paragraph (c)(6) is added to read as follows:

§ 690.78 Method of disbursement—by check or credit to a student's account.

* * * * *

(c) * * *

(6) An institution shall make a late disbursement to an ineligible student in accordance with the provisions in 34 CFR 668.164(g).

* * * * *

§ 690.81 [Amended]

37. Section 690.81 is amended by removing paragraph (c).

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