



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

THE ASSISTANT SECRETARY

September 4, 2009

GEN-09-11

Subject: Minor Prior Year Charges

Summary: This letter provides clarification to institutions on the requirements related to prior year charges.

Dear Colleague:

Generally, the Higher Education Act of 1965, as amended, requires that current year Title IV funds be used only for current year charges. On November 1, 2007, the Department published final regulations amending the cash management provisions that allow institutions to use current year Title IV funds to pay for minor prior year charges. The purpose of this Dear Colleague letter is to clarify several issues that have been raised with respect to compliance with those regulatory provisions.

Regulatory requirements

The amended regulations in 34 CFR 668.164(d)(2) increase from \$100 to \$200 the maximum amount of prior year charges that may be paid with current year funds, but remove the provision that allowed an institution to pay for prior year charges above that amount under certain circumstances. Like the prior rules, these regulations are intended to facilitate the continued enrollment of a student at an institution by providing an administrative solution to the institution for dealing with minor unpaid institutional charges from a prior year. The new rules were effective on July 1, 2008, unless an institution chose to implement them earlier.

Determining current year and prior year charges

For purposes of these regulations, the costs of education and other services an institution provides to a student are associated with the "year" for which the education and services are provided. If a student's aid package includes a Federal Family Education Loan (FFEL) or Direct Loan, the year is the loan period. If the student does not have an FFEL or Direct Loan, the year is the award year. Therefore, costs for the current year are defined as charges for education and services the institution will provide during (1) the current loan period for which the institution certifies or originates an FFEL or Direct Loan, or (2) the current award year if there is no FFEL or Direct Loan.

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In most cases, the total charges an institution assesses the student in a semester, academic year, or other instructional period are for education and services the institution provides within that period of time. However, some institutions charge a student upfront for the total cost of a multi-year program – for example, the student signs an enrollment agreement and is charged for the total costs of an 1800 clock hour program at the beginning of the program. In this case, because the charges assessed upfront represent the costs of education and services that will be provided over a two-year period, the institution would, on a program basis, apportion the total charges over the two-year period to determine the amount of charges applicable to each year (each loan period or award year, as appropriate). Institutional charges (generally speaking, tuition and fees) allocated to each year (or portion of a year) would be based on the education and services the institution provides during that period of time, in the same way as they are for institutions that charge their students year by year. Charges for books, equipment, supplies, and other materials could be allocated on a pro rata basis, or, alternatively, could be allocated to the period in which they must be purchased. An institution would use the total charges allocated to each year in determining the amount of current year charges under 34 CFR 668.164(d). The amount of current year charges would then be used for determining whether the student has a Title IV credit balance under 34 CFR 668.164(e).

This procedure for apportioning the costs over the length of the program does not affect how an institution maintains or should maintain its accounting records.

Cost of attendance

The provisions related to prior year charges do not affect the cost of attendance used for determining a student's aid package. An institution that assesses all institutional charges at the beginning of a multi-year program must still count those total charges in the cost of attendance for the loan period that covers the period when those charges are assessed, even though it assigns portions of those total charges to discrete years for purposes of the prior year charges regulations. Thus, subsequent loan periods would continue to have a cost of attendance that does not include any institutional charges when all of the institutional charges are assessed upfront in a multi-year program.

Return of Title IV Funds

This letter does not modify the procedures in 34 CFR 668.22 for a Return of Title IV Funds calculation when a student withdraws. When a Return calculation is done on a payment period basis, it deals with institutional charges and Title IV aid only for the payment period. For a clock hour or other non-term program, an institution will still follow the provisions of 34 CFR 668.22(g)(3). That is, when it does a Return calculation on a payment period basis, but charges for a period longer than a payment period, the institutional charges for the payment period used in the calculation are the greater of the

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prorated amount of the institutional charges for the longer period, or the amount of Title IV aid retained by the institution for (current year) institutional charges. Prior year charges and amounts retained for prior year charges are not included in that calculation. Similarly, Title IV aid applied to prior year charges is not included as aid disbursed in that calculation.

We hope that you will find this information useful. If you have questions about the issue discussed in this letter, please contact Brian Kerrigan at brian.kerrigan@ed.gov or at 202-219-7058.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Madzelan", with a long horizontal flourish extending to the right.

Daniel T. Madzelan
Delegated the Authority to Perform
the Functions and Duties of the
Assistant Secretary for
Postsecondary Education