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### Smart Solutions

TG’s weekly e-newsletter, *AIEmail*, is a great source for information on events, news, advice, deadline reminders, and more related to higher education and financial aid. Offer it as one of your outreach resources for families. Students and parents can [subscribe to AIEmail online](#).

## Industry Update

### Final rules focus: State authorization as a component of school eligibility

On October 29, 2010, ED published final rules on [Program Integrity Issues](#) to include clarification of the basis on which a school is permitted to participate in the Title IV student aid programs. This article provides important information to any school — public, nonprofit, or for-profit — about regulatory changes that may affect the school's eligibility.

#### State oversight role

In order to participate in any of the Title IV programs, a school must be legally authorized by a state to provide postsecondary educational programs to students in the state (unless certain federally-approved exemptions apply). State authorization, institutional accreditation, and ED approval are often referred to collectively as the “program integrity triad” that provides a framework of oversight sufficient to justify a school's access to federal student aid funds.

The changes in the final rules are intended to clarify a state's role in the program integrity triad, and to specify minimum standards applicable to state authorization requirements that enable schools to participate in the Title IV programs. ED explains in the preamble to the final rules, “We continue to view State authorization to offer postsecondary educational programs as a substantive requirement where the State takes an active role in authorizing an institution to offer postsecondary education.”

To demonstrate a school's legal authorization to offer postsecondary educational programs, a state must have its own process to “review and appropriately act on complaints” regarding a school and to enforce applicable state laws and regulations (except for federal or tribal schools). According to ED, a state is responsible for the appropriate resolution of a complaint. However, to the extent that a complaint relates to a school's quality of education or other matter appropriate for consideration by a school's accrediting agency, a state may refer a complaint to the school's accrediting agency for resolution.

#### State approval processes

The final rules delineate separate requirements for different types of schools, based on the type of authorization and organization involved. These are summarized below:

- *A school established by name by a state to be a postsecondary educational institution*

This includes a public, nonprofit, or for-profit school established by a state and identified by name in a charter, statute, constitutional provision, or official action as an educational institution authorized to provide postsecondary educational programs, including those leading to a degree or certificate.

The school must comply with all applicable state approval or licensure requirements, unless the state exempts the school by name from any such requirements based on the school's approval by an ED-recognized accrediting agency or its operation for at least 20 years.

- *A school established by a state on the basis of an authorization to conduct business*

This includes a for-profit school not established by name by a state as a postsecondary educational institution (as described above), but rather authorized by a state to conduct commerce or provide services.

The school must be approved or licensed by name by a state to provide postsecondary programs, including those leading to a degree or certificate. The school must also comply with all applicable state approval or licensure requirements (no exemptions).

- *A school established by a state on the basis of an authorization to operate as a charitable organization*

This includes a nonprofit school not established by name by a state as a postsecondary educational institution (as described above), but rather authorized by a state to support the public interest or common good.

The school must be approved or licensed by name by a state to provide postsecondary programs, including those leading to a degree or certificate. The school must also comply with all applicable state approval or licensure requirements (no exemptions).

- *A religious institution exempted from state authorization by state constitution or law*

This includes a nonprofit postsecondary school that is owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation. The school must award only religious degrees or certificates.

- *A school authorized by the federal government or an Indian tribe rather than a state*

This includes a public, nonprofit, or for-profit school authorized by name by the federal government or an Indian tribe (as defined under federal law) to provide

postsecondary programs. If a school is authorized by an Indian tribe for this purpose, the school must be located on tribal lands, and the tribal government must have a process to review and appropriately act on complaints regarding the school and to enforce applicable tribal requirements or laws.

The preamble to the final rules includes examples of “institutions considered legally authorized” and “institutions not considered legally authorized.” This helps to further illuminate and distinguish the applicable authorization requirements for various types of schools.

The final rules also address the topic of state approval requirements for schools providing postsecondary programs via distance education or correspondence courses. If a school offers its program(s) to students in states other than the one where the school is located, the school must meet any applicable requirements to be legally authorized to offer postsecondary education in those states. The school must be able to document its state approval(s) to ED upon request.

### **School consumer information**

School disclosure requirements have been clarified and expanded to ensure that a current or prospective student may obtain a copy of documentation describing the school’s accreditation and its state, federal, or tribal approval. The rules stipulate that a school must also provide a current or prospective student with contact information for filing a complaint with the school’s accrediting agency and state approval entity, as well as any other relevant state official or agency that would “appropriately handle a student’s complaint.”

### **Implementation timeframe**

These requirements are effective July 1, 2011. However, ED has provided for up to two one-year extensions, if requested and granted on the basis of action a state needs to take to more closely align its approval processes with school requirements for participation in the Title IV programs. If a school requests such an extension, it must obtain from the state an explanation of how a one-year extension will permit the state to modify its procedures to comply with these rules.

### **Campus collaborations**

As noted above, a school is not authorized to participate in the Title IV programs if it does not possess the requisite state approval (or exemption from approval) to satisfy federal eligibility requirements. This means that it is critical for a school to determine if its current state approval will satisfy the requirements of these final rules, so that there is time to remedy the situation if that does not appear to be the case. Otherwise, the school could lose its Title IV eligibility.

A financial aid officer should immediately alert appropriate individuals in the administration to this issue, so they may study the final rules to determine what

changes, if any, may be required regarding the school's authorization status or documentation to support its Title IV eligibility.

It may also be important to initiate dialogue beyond the campus with the school's state oversight agency (or agencies), working collaboratively to determine if any changes are needed at the state level to ensure that authorizations comply with federal rules. ED has expressed a belief that many states have current approval processes that will meet the new requirements. However, a school should proactively verify if its current approval(s) will be sufficient, since implementation of changes at a state level may require legislative or regulatory action in some cases.

### **To learn more**

For more information on revised regulations, as well as the other topics included in the Program Integrity final rules, please refer to the November 4, 2010, [Shoptalk special edition](#). For questions about the final regulations, please contact TG Customer Assistance at (800) 845-6267, or send an e-mail message to [cust.assist@tgsic.org](mailto:cust.assist@tgsic.org).

## **Review the changes to disbursements of Title IV funds — provisions for books and supplies**

Effective July 1, 2011, ED is amending current rules regarding disbursements of Title IV funds to provide needy students with a way to obtain required books and supplies in a timely manner. Current regulations permit schools to disburse Title IV program funds in a manner that best meets the needs of students. However, ED has identified situations in which some schools delay disbursing funds to students for an extended time, or make only partial disbursements to cover costs for tuition and fees. As a result, students may not have the necessary resources to pay for books and supplies using Title IV funds at the beginning of a payment period.

Under the final rules, a school must provide a way for a Pell Grant-eligible student to obtain required books and supplies no later than the 7th day of a payment period, if 10 days prior to the payment period the school could disburse the student's Title IV funds and the disbursement of those funds would result in a credit balance.

The new provision covers any Pell-eligible student who has met all requirements to receive Title IV funds at least 10 days before the start of a payment period. If a student has not completed verification, or has unresolved conflicting information or an unresolved "C" code on the Student Aid Report (SAR) and Institutional Student Information Record (ISIR) at that time, the seven-day requirement does not apply.

In determining whether the disbursement of a student's Title IV funds would result in a credit balance, a school considers all of the Title IV funds the student is eligible to receive 10 days prior to the payment period. For example, if the first

disbursement of the student's Stafford loan is subject to federal delayed disbursement rules, those funds would not be counted in the determination of whether a Title IV credit balance exists for this purpose.

A school must provide an eligible student with the lesser of the amount of the Title IV credit balance or the amount the student needs to purchase required books and supplies for the payment period. In determining the amount needed by a student, a school may use either the actual cost of the books and supplies, or the allowance for books and supplies used in the student's cost of attendance for the payment period.

A school may make these funds available to a student in a number of ways, including through the use of a bookstore voucher, cash disbursement, or stored-value card. If a school elects to issue a bookstore voucher, the expenses for books and supplies are considered institutional charges.

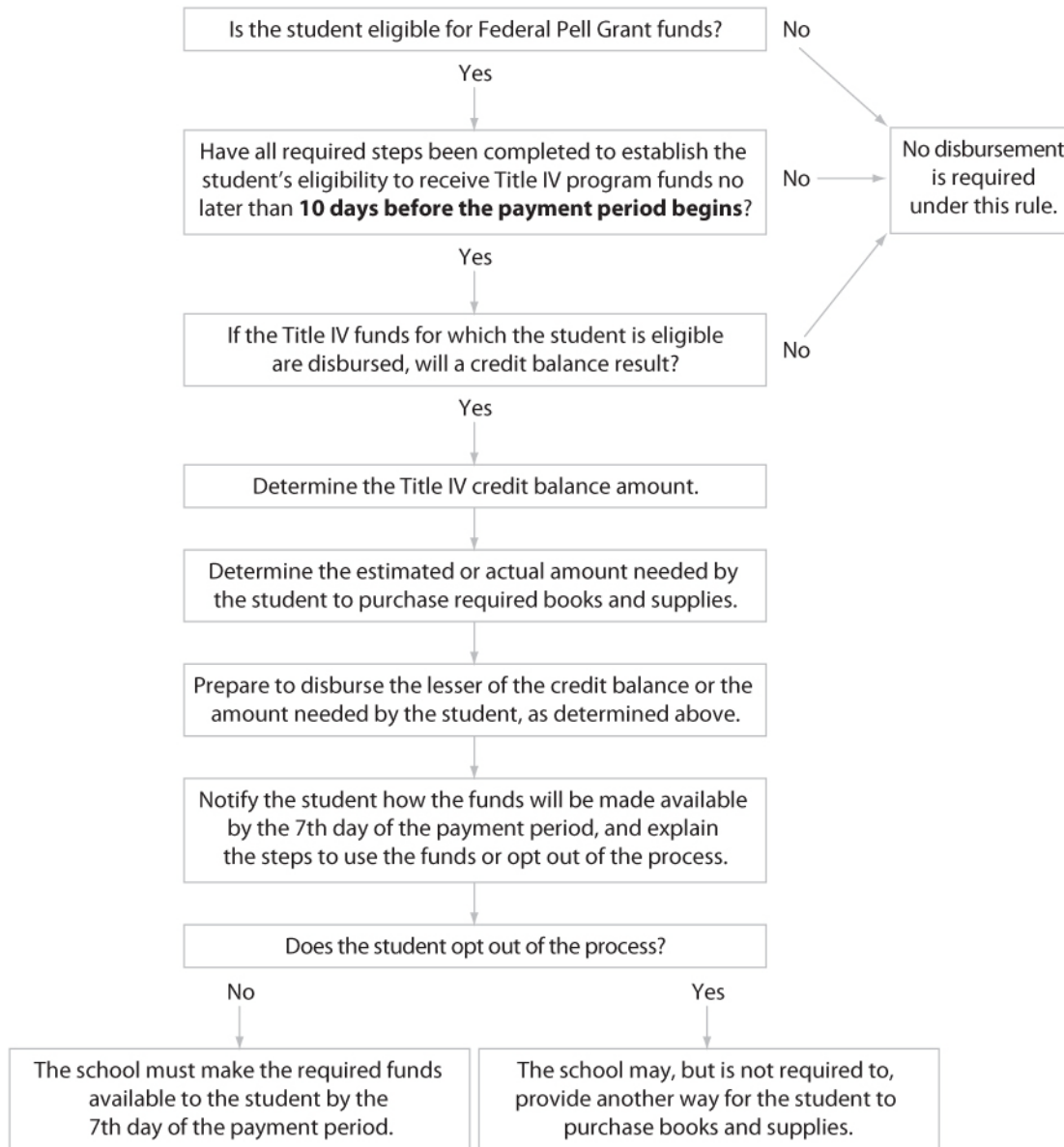
A school's financial aid information and notifications to Title IV recipients must describe how and when Title IV credit balance funds will be made available to a Pell-eligible student to obtain required books and supplies, in accordance with the seven-day requirement. A student's right to opt out of the school's process must also be explained. If a student chooses to opt out, the school may offer the student another way to purchase books and supplies but is not required to do so.

If a student uses a method provided by the school to obtain books and supplies, the student is considered to have authorized the use of Title IV funds. No separate written authorization from the student is required for this specified purpose.

As under current rules, a school is liable for Pell Grant funds credited to a student's account at the school or disbursed directly to a student, if the student does not begin attendance in the payment period.

### **Process flow chart**

To assist schools in understanding the new disbursement provisions, a flow chart is provided below to illustrate the criteria used to determine if funds for books and supplies must be made available to a student, and to outline the steps to administer the process. (You can also open and print or save [a PDF copy of the following flowchart.](#))



### Campus collaborations

To ensure that funds for required books and supplies are made available to Pell-eligible students by the 7th day of a payment period, timely coordination of notifications and approvals among several campus offices will be necessary. Financial aid and business office colleagues will need to confer on how to create an effective process for this purpose, if such a process does not currently exist on campus. For example, if a school chooses to issue bookstore vouchers to provide the funds, arrangements with the bookstore will need to be in place for student notification and use of vouchers by the end of the first week of the payment period.

A school may also consider it important to confirm that a student has actually begun attendance in a payment period prior to disbursement of Title IV funds, to avoid potential liabilities. If so, it may be necessary to develop a timely mechanism or process to provide this assurance.

Schools are urged to carefully review the final rule and the preamble to the proposed and final rule as soon as possible, to determine what changes are needed to policies and procedures to comply with the new requirement. This will maximize the period available to implement any necessary changes by July 1, 2011.

### **To learn more**

For more information on revised regulations, as well as the other topics included in the Program Integrity final rules, please refer to the November 4, 2010, [Shoptalk special edition](#). For questions about the final regulations, please contact TG Customer Assistance at (800) 845-6267, or send an e-mail message to [cust.assist@tgsllc.org](mailto:cust.assist@tgsllc.org).

## **Return of Title IV funds and taking attendance**

The Program Integrity final rules published on October 29, 2010, clarify and expand the definition of “an institution that is required to take attendance.” Some of the changes simply formalize current policy guidance, while others introduce conceptual changes to the definition.

The final rules do not require any school to take attendance. However, as a result of the changes in the definition of a school required to take attendance, an increased number of schools will be deemed by ED to be required to take attendance. The new provisions are effective July 1, 2011.

Current rules specify that a school is “required to take attendance” if an outside entity, such as the school’s accrediting or state oversight entity, requires the school to take attendance, as determined by that entity. The final rules continue to consider such a school to be required to take attendance.

The final rules also include in the definition of “an institution that is required to take attendance”:

- A school with its own requirement to take attendance
- A school subject to an external requirement that can only be met by taking attendance or using a comparable process

ED’s goal is to ensure that a school uses the best data available to determine a student’s withdrawal date for purposes of calculating the amount of Title IV aid a student has earned. The use of actual attendance data provides the most precise determination of this amount, so it must be used for any school with its own

requirement to take attendance or any school subject to an outside requirement that by its nature requires monitoring of student attendance.

### **A school with its own requirement to take attendance**

If a school's instructor(s) or other employee(s) or procedure is required to monitor student attendance, even if only for a limited period or only for certain students, then the school is considered to be "an institution that is required to take attendance" with respect to that period or those students. If the requirement is limited to a certain period or to certain students, the school is not considered to be required to take attendance outside of the limited period or the specified subgroup of students.

If a school does not require its faculty to take attendance, but a faculty member elects to do so anyway, ED does not consider the school to be "an institution that is required to take attendance." However, ED encourages a school to use the best information available to determine a withdrawal date for a student for purposes of determining earned Title IV aid, as indicated above.

### **A school subject to an outside requirement that can only be met by taking attendance**

ED explains in the preambles to the proposed and final rules that if the substance of an external requirement involves monitoring of student attendance, then ED deems the school to be required to take attendance – even if the school or outside entity whose requirement the school must meet does not formally consider the school to be required to take attendance.

An example of this would be an outside entity's requirement that a student complete a specified number of clock hours in a program. Such a school might measure its program in credit hours for academic purposes, but with regard to determining a student's withdrawal date for Title IV purposes, the school would be considered "an institution that is required to take attendance."

An issue of particular interest for many schools is "census date" attendance-taking activities on campus. If schools take attendance only on a single, specified class date for census purposes (even if that requires taking attendance on two different days to capture attendance in classes that meet on alternate daily schedules during a week), ED does not consider such activity to constitute required attendance-taking for purposes of the final rule (see p. 66901, lower first column of the preamble).

If, on the other hand, a school takes attendance for a period of time at the beginning of each term, such as from the first class day through the end of the school's add/drop period for finalizing class schedules, the school is considered "an institution that is required to take attendance" during that period. If a student is in

attendance at the end of the period, R2T4 requirements applicable to a school that is not required to take attendance would then apply until the next attendance-taking period at the beginning of the following term. If a student is not in attendance at the end of the attendance-taking period at the beginning of a term, the student's withdrawal date is determined based on the school's records for that period unless the school is able to document a later date of academic attendance, or attendance at an academically-related activity, as described below.

Finally, if certain students (such as recipients of veterans benefits) are required to self-report or self-certify attendance in a school's program to an outside entity, the school is not considered to be "an institution that is required to take attendance" based on this requirement unless the school is also required to verify the students' self-certifications.

### **"Academic attendance" and "attendance at an academically-related activity"**

Consistent with current rules, the final rules provide that if a school is not considered to be required to take attendance, either overall or with regard to a certain student or period of time, the school may use a student's last documented "academic attendance" or "attendance at an academically-related activity" to determine the student's withdrawal date for R2T4 purposes. The final rules codify current policy guidance on this topic as described in the *Federal Student Aid Handbook*. Examples of "academic attendance" and "attendance at an academically-related activity" include:

- Physical attendance in class with an opportunity for instructor and student interaction
- Submission of an academic assignment
- Completion of an exam, interactive tutorial, or computer-assisted instruction
- Attendance at a study group assigned by the school
- Participation in an online discussion regarding academic matters
- Contact with a faculty member to ask a question about a subject studied in class

The final rules also offer examples of activities in which a student is *not* considered to be academically engaged:

- Living in school housing
- Participating in a school's meal plan
- Logging into an online class without actively participating

- Participating in academic counseling or advisement (a change from current ED guidance)

ED also explains in the preamble that a school that is considered to be required to take attendance is also permitted to use the school's records of a student's academic attendance or attendance at an academically-related activity as "evidence of attendance," provided this does not conflict with the requirements of the school or outside entity that requires attendance-taking (as explained at the top of the first column on p. 66899 of the preamble).

A school must determine whether a student is engaged in academic attendance or attendance at an academically-related activity. A student's certification of such attendance that is not supported by school documentation is not acceptable to use when determining a student's withdrawal date.

### **Campus collaborations**

To successfully implement the requirements of the final rules to rely on student attendance records in the circumstances described in this article, it is important for any campus office or faculty member responsible for monitoring student attendance to maintain such records and timely communicate any attendance lapses to those responsible for determining when a student is considered to have withdrawn from enrollment. This information is critical to a school's ability to appropriately determine a withdrawal date for a student in accordance with R2T4 requirements.

Since R2T4-related violations of Title IV rules are one of the most common areas of school error and can create a repayment liability for the school and/or the student, a school would be well served to review its existing policies and procedures, identify current limitations or shortcomings in obtaining and using this information, and initiate a proactive effort to inform campus colleagues about the revised federal requirements if they are expected to apply to some or all of the school's students. Such colleagues routinely involve financial aid, registrar, student services or academic advisement, and business offices on campus. However, since faculty, instructors, and other academic officials on campus such as departmental deans may be involved or informed when students cease attendance, these colleagues may need to be engaged at a higher level than in the past to provide assistance in monitoring attendance to the extent necessary to avoid missteps and potential liabilities on the part of the school. This will help a school that is considered to be required to take attendance to determine if a student withdrew within 14 days after the student's last date of attendance.

### **For more information**

All schools participating in the Title IV programs are advised to carefully review the new R2T4 provisions in the final rules. For more information on these regulations, as well as the other topics included in the Program Integrity final rules, please refer

to the [November 4, 2010, Shoptalk special edition](#) as it includes the [New Regulations Roadmap](#) tool providing page references for preamble and regulatory language on each topic, for both proposed and final regulations. This will facilitate easier navigation of the NPRM and final rules publications.

For questions about the final regulations, please contact TG Customer Assistance at (800) 845-6267, or send an e-mail message to [cust.assist@tgslc.org](mailto:cust.assist@tgslc.org).

## Looking closer at return of Title IV funds for programs with modules or compressed courses

Effective July 1, 2011, the final rules introduce changes in the return of Title IV funds (R2T4) rules for students enrolled in educational programs that include modules or compressed courses. ED's purpose in making these changes is to provide for more equitable treatment of students who withdraw from term-based and nonterm-based programs that include courses offered in modules or compressed formats.

Title IV funds are awarded based on a student's plans to complete an entire payment period or period of enrollment (referred to as a "period" in this article). The Higher Education Act (HEA) applies the R2T4 requirements to any student who withdraws from a school during a period in which the student began attendance. The HEA also specifies that a student's Title IV funds are earned on a pro rata basis through the 60 percent point of a period, based on days completed in a credit-hour program or clock hours completed in a clock-hour program.

Based on these principles, ED believes that a student who withdraws from a period may not be entitled to all of the Title IV funds awarded to the student for the entire period, even if the student completed at least one module or compressed course during the period. If the student ceases attendance in modules or compressed courses and does not attend other scheduled modules or courses later in the same period, the student will be considered to have withdrawn under the final rules. If this occurs, a school is instructed to perform an R2T4 calculation to determine the amount of aid earned by the student and to return any unearned aid. There is an exception to this requirement, as described in detail below.

The final rules negate previous guidance originally provided in Dear Colleague Letter (DCL) GEN-00-24, Return of Title IV Aid – Volume #1, issued in December 2000. For a standard-term program using modules, this previous guidance indicated that a student would not be considered to have withdrawn from a period if the student completed at least one course within the period, regardless of the length of the module.

## **Defining programs offered in modules and nonstandard-term programs**

As part of the final rules, ED provides clarification about what it means for a program to be “offered in modules” as well as what constitutes a nonstandard-term program. The rules state that:

- A program is offered in modules if one or more courses in the program do not span the entire length of the payment period or period of enrollment.
- A nonstandard-term program is a term-based program that does not qualify under §690.63(a)(1) or (a)(2) to calculate Federal Pell Grant payments under §690.63(b) or (c).

These definitions will help a school to evaluate if the change in rules impacts the school’s students.

## **Subsequent attendance by a student within a period**

Despite a student’s decision to cease attendance during a period that includes modules or compressed courses, the final rules specify that if a school obtains written confirmation from the student at the time of withdrawal that the student will attend another module or course later in the same period, the student is not considered to have withdrawn at that time (based on the student’s confirmed plans to resume attendance within the period). However, for a nonterm or nonstandard-term program, the student’s attendance must be scheduled to resume within 45 calendar days after the end of the module or course the student ceased (or failed) to attend, in order for the student not to be considered to have withdrawn.

If, at the time a student ceases attendance, a school does not obtain written confirmation that the student plans to attend a later module or course in the period, the school must consider the student to have withdrawn and must comply with R2T4 requirements.

However, if the student does later return during the same period to attend another module or course, the student will not be considered to have withdrawn after all (subject to the same 45-day requirement for resumption of attendance in a nonterm or nonstandard-term program). The R2T4 process will be reversed in such a case. Therefore, it is important for a school to monitor and verify the student’s subsequent attendance in the same period, in order to take appropriate action under the final rules.

It is also important for a school to monitor and verify a student’s subsequent attendance in the same period if the student provided a written confirmation of plans to attend a later module or course at the time the student ceased attendance. If the student does not resume attendance later in the same period as planned, the student is then considered to have withdrawn – and the withdrawal date is determined to be the original date the student ceased attendance in the period. The

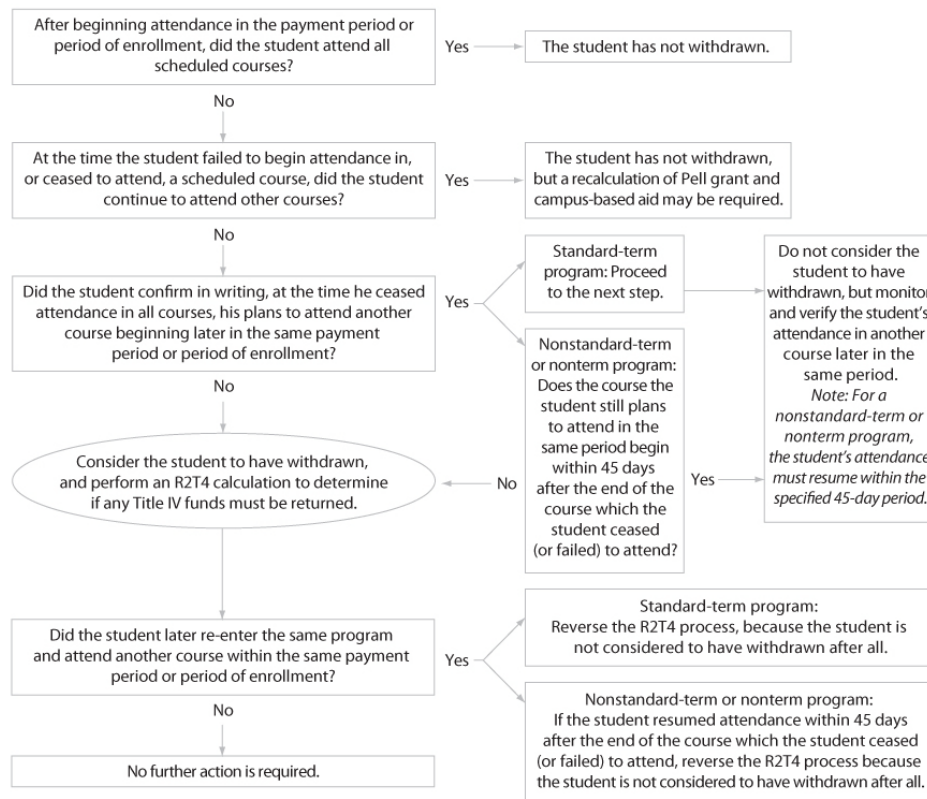
school then performs an R2T4 calculation to determine if Title IV funds must be returned based on the original withdrawal date.

Finally, in a case where written confirmation of future attendance in the period has been provided, a student may change the scheduled date of return to a module or course that begins even later in the period, provided the student does so in writing before the scheduled return date (and subject to the 45-day requirement for resumption of attendance in a nonterm or nonstandard-term program).

In summary, it is important for a school to have a process in place to determine if a student attending a program that includes modules or compressed courses completes all scheduled modules or courses in a period. If a student ceases attendance, the process described above directs the school's actions.

### Determining if a withdrawal has occurred and R2T4 requirements apply

To assist schools in determining if a student attending a program that includes modules or compressed courses is considered to have withdrawn, TG has developed a flow chart to illustrate the new requirements. The flow chart includes three diagnostic questions offered by ED in the preamble of the [final rules](#) on this topic to determine if a withdrawal has occurred, and then outlines process steps to guide schools in determining how to proceed based on a student's subsequent attendance plans and outcome. (You can open and print or save [a PDF copy](#).)



There are nuances of requirements described in the preambles of the proposed and final rules and the actual regulatory language of the final rules that will also be helpful to schools to keep in mind, so this flow chart should be used in conjunction with a close reading of those preambles and final rules.

ED also states that the final rules do not alter a school's responsibility to have a procedure in place to determine if a Title IV recipient who began attendance in a period completed the period or should be treated as a withdrawal. ED does not specify how a school must make this determination for a student, but provides a reminder that previously published guidance may assist a school in doing so.

For instance, a school may presume a student completed a period in a program that includes modules or compressed courses if the student did not officially withdraw and received a passing grade in each module or course the student was scheduled to attend during the period. If a student attending a program that includes modules or compressed courses does not receive a passing grade in the final module(s) or course(s) the student was scheduled to attend during the period, the school must otherwise determine if the student completed the period. In some cases, a school may rely on its grading policy to make this determination, if a student's failing grade indicates whether the student actually participated in a course. For additional guidance, a school may refer to DCL GEN-04-12, Return of Title IV Aid, issued in November 2004.

### **Determining the portion of a period completed by a student**

As noted above, the HEA stipulates that a student's Title IV funds are earned on a pro rata basis through the 60-percent point of a period, based on days completed in a credit-hour program or clock hours completed in a clock-hour program.

According to ED, the final rules do not change what it means to complete days in a credit-hour program, or to complete clock hours in a clock-hour program, for the purpose of determining the amount of Title IV aid earned by a student who withdraws from a program.

In the preamble to the final rules, ED provides the formula for determining the percentage of a period completed by a student attending a program offered in modules or compressed courses, in the event that the student withdraws without completing at least one course in the period:

$$\frac{\text{Total number of days student has completed in period}}{\text{Total number of days student was scheduled to attend based on course schedule}}$$

The total number of days the student completed or was scheduled to attend in the formula excludes any scheduled break of at least five consecutive days, and any days during an approved leave of absence.

ED indicates that this guidance is consistent with its previous guidance published in GEN-00-24, Return of Title IV Aid – Volume #1, issued in December 2000.

*Note:* An example of how to apply this formula to a period including both a semester and an intersession is offered at the top of the first column on p. 66897 of the preamble to the final rules.

*Additional note:* A comment summary and response from ED as to how to perform an R2T4 calculation for a student attending a clock-hour program may be of particular interest to schools offering clock-hour programs, to alleviate any potential confusion. This comment appears at the top of the middle column on p. 66893 of the preamble to the final rules, and ED's response is provided in the middle of the third column on p. 66894 of the preamble.

### **Campus collaborations**

A student's program delivery format, enrollment schedule, record of attendance, withdrawal decision, and resumption of attendance plans and outcome are all factors in determining how a school handles the student's Title IV aid in conjunction with the final rules. It is clear that these factors require timely communication and coordination of information between the various offices on campus responsible for administering or monitoring these types of variables.

In addition to the financial aid office, these typically include at least the registrar's office, student services or academic advisors, and the business office – and may include others, such as instructors or departmental deans, based on a student's cessation of attendance or communication of attendance plans to a school representative. A school should consider the ways in which a student might notify the school of plans to withdraw or temporarily cease attendance, in order to determine how best to communicate with the student at that time to verify if the student plans to resume attendance during the period. This may simplify matters for the school with respect to determining how to handle the student's Title IV aid funds.

Collaborations may also include advance notifications to students about the importance of completing a period that includes modules or compressed courses, and the possible financial ramifications of a student's failure to do so.

### **For more information**

All schools participating in the Title IV programs are advised to carefully review the new R2T4 provisions in the final rules. For more information on these regulations, as well as the other topics included in the Program Integrity final rules, please refer to the [November 4, 2010, Shoptalk special edition](#) as it includes the New Regulations Roadmap tool providing page references for preamble and regulatory

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## How the final rules affect “ability-to-benefit” regulations

To receive Title IV program funds, a student lacking a high school diploma or its recognized equivalent (e.g., a GED credential) must demonstrate academic readiness to succeed in — or the ability to benefit from — a postsecondary educational or training program. ED’s Program Integrity final rules address eligibility criteria for students to demonstrate an ability to benefit (ATB) from a school’s program, as well as the testing process used by many ATB students.

### Student eligibility provisions

In 2008, the Higher Education Opportunity Act (HEOA) amended the Higher Education Act (HEA) to include a new provision specifying that a student must be deemed to have demonstrated an ability to benefit from the education or training offered by a school upon satisfactory completion of six credit hours or the equivalent coursework applicable toward a degree or certificate offered by the school. The statute does not distinguish between the different types of credit hours a school may use (semester, trimester, or quarter hours), nor does it specify the “equivalent” number of clock hours for this purpose.

ED’s rules interpret this statutory provision as requiring six semester, trimester, or quarter credit hours, or 225 clock hours, of successfully completed coursework applicable toward a degree or certificate program offered by the school to demonstrate a student’s ability to benefit.

This method of satisfying ATB requirements provides an additional avenue for students to qualify to receive Title IV funding. Other current ATB alternatives remain in effect, which include:

- Passing an ED-approved ATB test
- Satisfying the requirements of an ED-approved state process

It is important to note that a student who completes six credit hours (or 225 clock hours) in a program does not become eligible to receive Title IV funds on that basis until final course grades have been issued to validate “successful” completion. Therefore, no Title IV funds can be provided before, during, or after completion to cover the student’s cost of attendance (COA) for taking those courses.

In most cases, this means that such a student cannot receive any Title IV funds for the payment period in which the six credits are earned. The only possible exception

is for a student enrolled in a payment period that includes multiple modules or compressed courses, where some of the modules or courses are completed and graded individually before the end of the payment period. In such a scenario, if the student successfully completes six credits (or 225 clock hours) prior to the end of the payment period, the school may calculate the student's COA to complete the remaining modules or courses in the payment period and provide Title IV funds to cover only those remaining modules or courses — provided the student is otherwise eligible to receive Title IV funds for that limited period and course load.

The preamble to the final rules provides a number of clarifications that may assist schools in better understanding the application of the “six-credit rule”:

- ATB requirements pertain to a student's eligibility to receive Title IV funds, as noted above. ED clarifies that if a school's admission requirements do not permit a student lacking a high school diploma to enroll in the school, the six-credit rule does not apply because admission on the basis of ability to benefit (which pertains only to a non-high school graduate) is not allowed.
- ED expects the courses completed by a student in satisfaction of the six-credit rule to apply to a Title IV “eligible program,” although the regulatory language does not specify that requirement.
- Recognizing the possibility that a student may change programs while pursuing a postsecondary credential, the regulations do not require the courses completed by a student to satisfy the six-credit rule to be applicable to the specific program in which the student is enrolled. However, the courses must be applicable to one of the school's degree or certificate programs.
- Course requirements that a student “tests out of” cannot be used to satisfy the six-credit rule.
- Preparatory courses successfully completed by a student can be used to satisfy the six-credit rule only if those courses are a part of the student's degree or certificate program at the school.
- If a student successfully completes at least six credit hours (or 225 clock hours) in a degree or certificate program at one school, and then transfers to another school where six credit hours or more of the student's transferred courses count toward a degree or certificate offered by the new school, the student will have satisfied the new school's ATB requirement (if applicable).

In response to a public comment suggesting that ED should monitor the use of the six-credit rule, ED indicates that in 2011–2012, it plans “to implement a variety of changes to the data that institutions will provide to the Department,” enabling ED to distinguish between students who receive Title IV funds based on passage of an ATB test and those who do so based on successful completion of six credit hours (or

225 clock hours). No further details on anticipated changes in data reporting by schools are provided.

### **ATB testing provisions**

The intended oversight framework for ATB testing provides for ED to approve tests and to regulate test publishers and state processes (if any) involved in determining a student's ability to benefit, and for test publishers (or states) to train, certify/decertify, and monitor test administrators, evaluate and report test results, examine test data for trends and anomalies, and notify ED if issues or problems arise. Test administrators are responsible for complying with test publisher rules to ensure fair and appropriate test administration, safeguarding of test results, and avoidance of any potential conflicts of interest.

In August 2009, the U.S. Government Accountability Office (GAO) issued a report that cited ED for weak oversight of ATB test requirements and made several recommendations to improve controls and rules. In part, ED's changes to ATB test rules are responsive to the findings and recommendations of the GAO.

To improve the integrity of this testing process by which ATB students establish eligibility to receive Title IV funds, the final rules update and substantially strengthen provisions on test approval procedures and criteria, test administration requirements, and agreements between test publishers and ED. Changes also address issues specific to non-English speaking students and individuals with disabilities.

Definitions of key terms are added or revised as appropriate to improve clarity. The most significant changes relate to the definitions of "independent test administrator," "test," and "test administrator."

A school is required to keep a record of each individual who took an ATB test. The record must include the test taken by the individual, the date of the test, the individual's score(s), the name and address of the test administrator, and any identifier assigned to the administrator by the test publisher (or state). If an individual with a disability is unable to be evaluated using an approved test, or requests or receives a testing accommodation, a record of the individual's disability and the testing arrangements must be maintained also. A school assessment center must maintain similar records, as well as provide weekly submissions of information and test results to the test publisher (or state).

If it is determined that ATB tests were improperly administered, there are new rules regarding how to handle the situation. ED also committed to providing further guidance to test publishers (or states) and schools if such a situation were to occur (as noted in the preamble of the proposed rules).

Finally, institutional accountability provisions have been expanded to specify that a school is liable if the school used a test that was not administered independently in accordance with regulatory requirements, or if the school or its employee(s) compromised the testing process in any way.

### **Campus collaborations**

Extensive regulatory changes have been made to the ATB testing provisions. Many of these apply specifically to test publishers, while others apply to test administrators (independent or otherwise) and still others apply directly to schools that offer ATB admissions. It is critical for these schools to closely review the changes in the final rules.

Financial aid officers may not be sufficiently knowledgeable of ATB testing matters to advise colleagues who work closely with ATB testing about the impact of the changes. Therefore, it is very important to alert those responsible for student testing to the proposed and final rules and the commentary published in the *Federal Register* on June 18, 2010 and October 29, 2010, respectively. To quickly identify the portions of the *Federal Register* devoted to ATB provisions, refer to TG's [New Regulations Roadmap](#) tool published in the *Shoptalk* special edition on November 4, 2010.

It is also very important to keep in mind that if a school permits ATB admissions, the school must make the six-credit rule alternative available to students as a means to satisfy ATB requirements.

In order to ensure successful implementation of the six-credit rule as described above, financial aid officers will need to consult with admissions staff and academic advisors, as well as registrar personnel, to ensure a common understanding of the rule and a coordinated and timely approach to determining when students have successfully completed the requisite coursework to qualify for Title IV funds. Business office colleagues should be made aware of the six-credit rule also, and be provided with instructions on how to recognize when students are authorized to receive Title IV disbursements, as well as how to apply federal cash management rules if funds are requested in anticipation of a student's imminent completion of the required coursework.

### **To learn more**

For more information on revised regulations, as well as the other topics included in the Program Integrity final rules, please refer to the November 4, 2010, [Shoptalk special edition](#). For questions about the final regulations, please contact TG Customer Assistance at (800) 845-6267, or send an e-mail message to [cust.assist@tgslc.org](mailto:cust.assist@tgslc.org).

## TG Report

### Register for TG's November industry webinars on Program Integrity final rules

Final regulations on a collection of fourteen topics intended to strengthen the integrity of the Title IV programs were published on October 29, 2010. These new rules primarily affect schools, including financial aid administrators and colleagues with other campus administration responsibilities.

#### Register for TG's final rules webinars

To help schools understand and prepare to implement these rules, TG will offer a two-part webinar on Program Integrity final rules on November 18 and 19, 2010. Part 1 of the webinar is scheduled for 10 a.m.–11 a.m. Central Time, on November 18. Part 2 is scheduled for 3 p.m.–4 p.m. Central Time, on November 19.

To register for the TG's Program Integrity final rules webinars [Part 1](#) and [Part 2](#), visit *TG Online*.

### TG's Center for Financial Aid Policy in Community Colleges welcomes new advisory committee members

TG established the Center for Financial Aid Policy in Community Colleges as a resource to community colleges on policy and practice, especially student financial aid practice.

An advisory committee made up of financial aid professionals guides the Center's work, offering advice and information on issues relevant to the 2-year community. Four new members were recently elected to the advisory committee, including Casey Acker of Blinn College, Annette Morgan of Kilgore College, Robert Merino of San Jacinto College, and Lee Carrillo of Central New Mexico Community College. These new members will work together to develop solutions and strategies that can help community colleges advance their educational mission.

Here's a short introduction to each new member.

- **Casey Acker** has worked in Blinn College's financial aid office for the last three years. For the last six months, he has served as director of that office. Prior to that, he worked for 13 years in the private sector as a general office manager. Acker will represent the Central Texas region on the committee.
- **Annette Morgan** has worked at Kilgore College in the financial aid office for 21 years, serving as director for the last 11 years. Morgan will represent the East Texas region.

- **Robert Merino** of San Jacinto College has worked in financial aid for over 13 years. He has been director of financial aid at San Jacinto for nearly 4 years. Merino will represent the Gulf Coast region.
- **Lee Carrillo**, director of financial aid at Central New Mexico Community College, joins the advisory committee as a national representative. Carrillo has more than 20 years of financial aid experience, and is active in state, regional and national associations. He is the current Southwestern Association of Student Financial Aid Administrators (SWASFAA) president, member of the National Association of Student Financial Aid Administrators (NASFAA) board, and a former treasurer and committee chair for the New Mexico Association of Student Financial Aid Administrators (NMFASFAA).

### About the Center

In an era of growing budgetary and enrollment pressures, the Center works to give a voice to community college issues, facilitate a dialogue among 2-year institutions, and help generate solutions that can streamline financial aid practice.

### To learn more

Find out more about the [activities of the Center for Financial Aid Policy in Community Colleges](#).

## TG's Thanksgiving hours and *Shoptalk* publishing schedule

TG offices will close at noon on Wednesday, November 24, and will remain closed for the remainder of the week. TG will resume normal business hours on Monday, November 29. *Shoptalk* will also take a short hiatus. The next edition of *Shoptalk* will be published November 30.

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## News Briefs

According to various federal and private sector studies, higher education in the U.S. is in a race of sorts — a race to produce enough students with a postsecondary degree over the next 20 years so that the U.S. economy can continue to grow. Many of these studies project that graduation rates aren't high enough to sustain U.S. competitiveness with other industrialized nations. A new white paper produced by McKinsey and Company, a private consulting firm, offers a few ideas for boosting rates. Among other things, the white paper, "Winning by degrees: The strategies of highly productive higher-education institutions," suggests that 2- and 4-year public institutions should work more closely with students as they plan their courseload over the two or four years of study; monitor course loads to prevent students from registering for too many electives; integrate technology into instruction in order to

cut costs and focus resources elsewhere; beef up student support services for academic, financial, and career preparation; and streamline other services in order to reduce costs in these areas. Learn more about some of the [latest research into raising enrollment and graduation rates](#).



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