



COVID-19 Update: U.S. Department of Education issues Title IV guidance

March 17, 2020

On March 5, 2020, the U.S. Department of Education's Office of Postsecondary Education issued an [announcement](#), "Guidance for interruptions of study related to Coronavirus (COVID-19)," to address concerns arising with respect to compliance with federal financial aid policies. The guidance is extensive and, at times, technical, given the intricacies of the federal financial aid process.

The guidance is predicated on five "potential student and campus scenarios" that might prompt questions about an institution's ability to maintain compliance with federal financial aid policies. The department's scenarios cover students studying abroad, students unable to meet full-time enrollment requirements, students who are quarantined or incapacitated, institutions that stop offering ground-based classes, and foreign schools that serve U.S. students and are temporarily suspending operations because of COVID-19. As robust as these scenarios are, the guidance likely has even broader applicability in light of the uncertainty that institutions are facing.

There are two predominant takeaways from the guidance at this point: (1) schools will be provided flexibility where they are working to help students complete the term in which they are currently enrolled, and (2) schools must document any actions taken as a result of COVID-19, and do so as contemporaneously with the decision-making as possible.

Online and distance education for impacted students

In the spirit of minimizing educational disruptions, the department is supporting – perhaps encouraging – the fairly robust use of online and distance education platforms. For many students facing interruptions, online coursework will provide a viable option

for continuing studies uninterrupted (a point that becomes more important both to student and institution alike). Continuing online may prove useful both to students who were enrolled in ground-based programs that have since closed temporarily and for those students recalled from study abroad experiences. Where ground-based classes are full or the enrollment deadline has passed, institutions are encouraged to offer online education.

Department approvals

In light of the speed with which institutions are needing to respond to COVID-19, the department is “providing broad approval to institutions to use online technologies to accommodate students on a temporary basis, without going through the regular approval process of the department in the event that an institution is otherwise required to seek departmental approval for the use or expansion of distance learning programs.”

Note, however, that this only applies during a payment period that overlaps the date of the department’s guidance (March 5, 2020) or the following payment period. Following that, an institution must follow the normal approval process.

Accreditation

In line with the spirit of the guidance, the department is permitting accreditors to waive distance education review requirements for institutions working to accommodate students facing enrollment impacts due to COVID-19. This applies to distance learning opportunities that had been developed for students already in attendance but whose attendance has been interrupted by COVID-19.

Note, however, that the same flexibility may not be extended to clock-hour courses that lead to licensure if the licensure body will not accept distance learning courses or hours or otherwise provide credit.

The department is also permitting accreditors to waive any standards pertaining to the use of learning management system or online platform sophistication. However, institutions are reminded that the department will continue to require that an institution communicates to students through one of several types of technology – including email – and that such communication between students and instructors occur regularly and remain substantive.

Where students began attendance in a ground-based program but have since transitioned to a distance education format due to a COVID-19 interruption, the department will accept the accreditation and state authorization of the institution for the programs in which those students were enrolled prior to the interruption due to COVID-19 to enable students to complete the current term.

Institutions are permitted to enter into temporary consortium agreements with other institutions for the purpose of allowing students to complete courses at other institutions while being awarded credit by their home institution. Where accrediting agencies require students to complete a final number or percentage of credits at the home institution, the department is allowing accreditors to waive those requirements for students impacted by COVID-19.

Students wishing to take an approved leave of absence for “COVID-19-related concerns” will be so permitted by the department, even if the student notifies the institution in writing after the approved leave of absence has begun. Where students exercise this option, an institution may retain those Title IV funds to apply when the student returns. If the student does not return within 180 days (more on this below) the school would then be expected to perform the Return of Title IV funds calculation based on the date on which the leave-of-absence began.

Finally, for students recalled from travel abroad experiences after the semester began, institutions are permitted to offer courses to those students on a non-standard term schedule, if doing so would allow the students to complete the term. This flexibility will also be afforded to institutions that must temporarily close as a result of COVID-19.

Foreign schools

Since the Higher Education Act (HEA) does not permit foreign schools to provide distance learning to U.S. students who are

participating in Title IV HEA programs, the department cannot extend flexibility regarding the use of distance learning to students attending foreign schools.

Federal work-study (FWS)

For students enrolled and performing FWS at a campus that must close due to COVID-19, or for an FWS student who is employed by an employer that closes as a result of COVID-19, the institution may continue paying the student Federal work-study wages during that closure if:

- it occurred after the beginning of the term,
- the institution is continuing to pay its other employees (including faculty and staff), and
- the institution continues to meet its institutional wage share requirement.

For graduate students receiving FWS wages, they may also continue to be paid for the remainder of the term if the institution is also paying its faculty and staff during that period.

Remember to document that the COVID-19 disruption was the reason for any payment with FWS funds that were not supported with documentation of hours worked.

Length of the academic year

If an institution determines that it will close as a result of COVID-19, or any health emergency, it may contact the department's [School Participation Division](#) to request a temporary reduction in its academic year.

Financial aid administrators

The department is recognizing that financial aid administrators have "statutory authority to use professional judgment to make adjustments on a case-by-case basis to the cost of attendance or to the data elements used in calculating the EFC to reflect a student's special circumstances." In light of the impact that students and their families may be facing as a result of COVID-19, such professional judgment may be warranted, though the use of such judgment must always be exercised on a case-by-case basis. To that end, administrators are required to obtain documentation that substantiates any adjustments, and such documentation must be kept in the relevant student's file.

Satisfactory Academic Progress

Federal law requires that an institution's Satisfactory Academic Progress appeal policy describe the basis upon which a student may file an appeal (i.e., death of a relative, injury or illness to the student). In light of the unique nature of the COVID-19 outbreak and the attendant steps being taken to reduce its spread, the department is permitting the basis of a student's SAP appeal to include: illness of a student or family member, compliance with a quarantine period, the general disruption of an outbreak, and other circumstances surrounding the outbreak and its containment.

Students who did not begin attendance

For students who are unable to begin classes or who have had their study abroad programs canceled, the institution must "return all Title IV grant funds disbursed for the payment period or period of enrollment and all Direct Loan funds that were credited to the student's account at the institution for that period." Similarly, the institution must return Direct Loan funds "in the amount of payments made directly by or on behalf of the student to the institution for the period, up to the total amount of the loan funds disbursed."

Where Direct Loan funds were disbursed directly to the student in the form of a credit balance, the institution need not return such funds "as long as the institution was not aware that the student would not attend prior to the disbursement, and students will be able to repay those funds as a part of their educational loans."

Further, the department has concluded that "in the case where a student was unable to begin attendance due to COVID-19

related school closure, the provisions of 34 CFR § 668.21(a)(2)(ii), requiring the institution to notify the servicer of that student's failure to begin attendance, do not apply because the option for the student to begin attendance did not exist." Accordingly, the institution should not notify the servicer that the student did not begin attendance. Students will remain obligated to repay Direct Loan funds under the terms of the promissory note.

Enrollment status changes

The department does not have the authority to waive the requirement to award or disburse Title IV funds based on a student's actual enrollment status. However, the department reminds institutions that for Direct Loans, the institution must only confirm "at least half-time status" at the time of disbursement, thus it is not necessary to recalculate a student's Direct Loan eligibility due to enrollment status changes that occur after a Direct Loan is originated. Note that for enrollment status changes that occur after an institution's established Pell Grant recalculation (census) date, the department does not require recalculation, but students must have begun attendance in all courses comprising the enrollment status on which the Pell Grant payment was based.

Return of Title IV funds

The department does not currently have the authority to waive the statutory requirement for the return of unearned Title IV funds in cases where a student withdraws during a payment period or period of enrollment after having begun attendance. Thus, even in the case of disruption from COVID-19, an institution must return any Title IV funds for which it is responsible when a student withdraws.

Definition of a withdrawal date

- If an institution ceases operation during a payment period and fails to reopen by the end of that payment period, students are considered no longer in attendance and must be considered withdrawn and would be subject to Return of Title IV Funds requirements.
- If an institution closes but reopens during a payment period, students who fail to return when the institution opens must be considered withdrawn for that payment period.
- If the institution is required to take attendance, the withdrawal date is the last day of documented attendance prior to the closure.
- If the institution is not required to take attendance, the institution can use any applicable option under 34 CFR § 668.22(c), including the midpoint of the payment period or period of enrollment under 34 CFR § 668.2(c)(1)(iii) or, because the closure was a circumstance that the student could not control under 34 CFR § 668.22(c)(1)(iv), the date that the institution ceased operation.

When determining the number of days in the payment period or period of enrollment, the institution should include all the days that the student was scheduled to attend during that period on the date of the withdrawal. For a clock-hour program, an institution should not include as "scheduled hours" any hours on days that it was closed.

Date of determination and timeframes for returns

The timeframes for completing the Return of Title IV Funds calculations begin:

- On the date that an institution becomes aware that a student has ceased attendance, unless the student provides notification of his or her withdrawal, or
- On the date when an institution closes for reasons beyond its control.

Re-entering the same payment period

Where an institution that was closed subsequently reopens during the same payment period or period of enrollment, and students are permitted to continue coursework, students that return to class at that time are considered to have re-entered the same period and retain their eligibility for Title IV aid.

For students who subsequently withdraw, the institution must exclude the number of days that it was closed (if the closure was for at least five consecutive days, in combination with weekends or other breaks) from the number of days the student completed AND the total number of days in the payment period/period of enrollment.

If the institution altered the number of days in the payment period or period of enrollment following the closure (e.g., if it adds days to the term to make up for the time when it was closed), the institution should use the new number of days in the student's Return of Title IV funds calculation.

NSLDS enrollment reporting

The department requires that an institution perform a Return of Title IV funds calculation for students when an institution unexpectedly ceases operation during a payment period and fails to reopen during that payment period. However, the department is permitting institutions to defer reporting an affected student's enrollment status as "withdrawn" where the institution has a reasonable expectation that:

- The institution will reopen at the start of a payment period that begins no later than 90 days following the closure; and
- The student will resume attendance when the institution reopens.

If the student does not resume attendance as expected, the institution must change the student's enrollment status to "withdrawn" using the student's actual withdrawal date as the enrollment status effective date.

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