

Secretary is modifying this provision by removing the requirement that adjustments be made on a case-by-case basis for affected individuals. The use of professional judgment in Federal need analysis is discussed in the Student Financial Aid Handbook.

The Secretary encourages FAAs to use professional judgment in order to reflect more accurately the financial need of affected individuals. To that end, the Secretary encourages institutions to determine need for any affected individual by determining the most beneficial of:

- The individual's need as determined using the adjusted gross income plus untaxed income and benefits received in the first calendar year of the award year;

- The individual's need as determined using professional judgment; or

- The individual's need as determined making no modifications. (For example, in some cases, an individual's income will increase as a result of serving on active duty or performing qualifying National Guard duty.)

The FAA must clearly document the reasons for any adjustment. As usual, any professional judgment decisions made by an FAA that affect a student's eligibility for a Federal Pell Grant must be reported to the Central Processing System (CPS).

Return of Title IV Funds—Grant Overpayments Owed by the Student

Section 484B(b)(2) of the HEA and 34 CFR 668.22(h)(3)(ii) require a student to return or repay, as appropriate, 50 percent of any unearned grant funds for which the student is responsible under the Return of Title IV Funds calculation. For a student who withdraws from an institution because of his or her status as an affected individual, the Secretary is waiving these statutory and regulatory requirements so that a student is not required to return or repay an overpayment of grant funds based on the Return of Title IV Funds provisions. For these students, the Secretary also waives 34 CFR 668.22(h)(4), which:

- Requires an institution to notify a student of a grant overpayment and the actions the student must take to resolve the overpayment;

- Denies eligibility to a student who owes an overpayment and does not take an action to resolve the overpayment; and

- Requires an institution to refer an overpayment to the Secretary under certain conditions.

Therefore, an institution is not required to contact the student, notify

NSLDS, or refer the overpayment to the Department. Note that this is a change from previous guidance that instructed institutions to refer these overpayments to the Department. However, the institution must document in the student's file the amount of any overpayment as part of the documentation of the application of this waiver. The student is not required to return or repay an overpayment of grant funds based on the Return of Title IV Funds provision; therefore, an institution must not apply any title IV credit balance to the grant overpayment before paying any amount of the title IV credit balance to the student or parent, in the case of a PLUS loan.

Return of Title IV Funds—Amount of Unearned Funds Owed by the Institution

If the Return of Title IV Funds calculation results in the institution being required to return funds to one or more of the title IV programs, the institution must do so as it must for any student who withdraws. In many cases a return of funds by the institution will reduce the student's loan debt.

Section 484B(b)(1) of the HEA and 34 CFR 668.22(g) provide that an institution must return the lesser of (1) the total amount of unearned aid to be returned; or (2) an amount equal to the student's total institutional charges for the payment period or period of enrollment multiplied by the percentage of unearned aid. The total (initial) amount of institutional charges is used even if the institution fully refunds or otherwise adjusts the amount of institutional charges after the student withdraws. For a student who withdraws because of his or her status as an affected individual, the Secretary is modifying this provision to exclude from the amount of a student's total institutional charges any institutional charges that the institution is required to cover, and has covered, with non-title IV sources of aid. For example, assume a student receives a state grant of \$800 that must be used only for tuition charges. The institution applies the state grant toward the total institutional charges of \$1,000. The student withdraws. The institution uses \$200, the difference between the full institutional charges and the amount of the state grant the institution was required to apply to the institutional charges, as the student's total institutional charges for the payment period or period of enrollment when determining the amount of unearned title IV funds that the institution must return.

Verification of AGI and U.S. Income Tax Paid

34 CFR 668.57(a)(3) provides that when an individual whose income was used in the calculation of the EFC of an applicant for title IV assistance has not filed an income tax return because he or she has been granted a filing extension by the IRS, an institution must accept, in lieu of an income tax return for verification of AGI or income tax paid:

- A copy of IRS Form 4868, "Application for Automatic Extension of Time to File U.S. Individual Income Tax Return," that the individual filed with the IRS for the base year, or a copy of the IRS's approval of an extension beyond the automatic four-month extension if the individual requested an additional extension of the filing time; and

- A copy of each W-2 received for the base year, or for a self-employed individual, a statement signed by the individual certifying the amount of AGI for the base year.

The Secretary is modifying this provision so that the submission of a copy of IRS Form 4868 or a copy of the IRS extension approval is not required if an individual whose income was used in the calculation of the EFC:

- Has not filed and was not required to file an income tax return by the filing deadline because he or she was called up for active duty or for qualifying National Guard duty during a war or other military operation or national emergency; and

- Was not required to file for an extension.

For these individuals, an institution must accept, in lieu of an income tax return for verification of AGI or income tax paid:

- A statement from the individual certifying that he or she has not filed and was not required to file an income tax return or a request for a filing extension because he or she was called up for active duty or for qualifying National Guard duty during a war or other military operation or national emergency; and

- A copy of each W-2 received for the base year, or for a self-employed individual, a statement signed by the individual certifying the amount of AGI for the base year.

The student must submit the tax return to the institution once it is filed with the IRS for the institution to re-verify the AGI and taxes paid.

Category 2: The Secretary is waiving or modifying the following provisions of title IV of the HEA and the Department's regulations for affected individuals who are serving on active duty, performing