

Making Perkins Loans

CHAPTER 3

The Federal Perkins Loan Program includes Federal Perkins Loans, National Direct Student Loans (NDSLs), and National Defense Student Loans (Defense Loans). (No new Defense Loans were made after July 1, 1972, but a few are still in repayment.) Perkins Loans and NDSLs are low-interest (currently 5%), long-term loans made through school financial aid offices to help needy undergraduate and graduate students pay for postsecondary education. For Perkins disbursement rules, see Volume 4.

MAKING A PERKINS LOAN

A Perkins Loan (or NDSL) is made when the borrower has signed the Perkins Master Promissory Note (MPN) and the school makes the first disbursement of loan funds under that promissory note for that award year. The student is required to sign the MPN only once. Additional Perkins Loans may be disbursed to a student for up to 10 years after the date the MPN is signed. Although the borrower is only required to sign the MPN once, a school may choose to require a borrower to sign a new MPN for each award year. A student may also make a written request to sign a separate MPN for each award year.

After a student files a FAFSA and the Department determines an official Expected Family Contribution for the student, the school must award financial aid based on the student's loan eligibility and the maximum loan amounts for each loan program. For a complete explanation of awarding Perkins funds, see *Volume 3, Chapter 5, Awarding Campus-Based Aid*.

LOAN TYPES AND MAXIMUMS

A loan made to a new borrower under the Federal Perkins Loan Program is a Perkins Loan. (New borrowers should have no outstanding balance on a Defense Loan or NDSL.) If a borrower has an outstanding balance on a Defense Loan or NDSL when the new loan is obtained, the new loan is an NDSL. Loans made from July 1, 1972 through June 30, 1987 were NDSLs. Loans made before July 1, 1972 were Defense Loans.

The maximum amount an eligible student may borrow is \$4,000 per award year for a student who has not successfully completed a program of undergraduate education or \$6,000 per award year for a graduate or professional student.

Chapter Highlights

Disclosure to Students.....	6-62
Perkins MPN.....	6-64
Perkins MPN Q&A.....	6-68

Annual maximum loan:

Undergraduate: \$4,000
Graduate: \$6,000

Aggregate maximum loan:

Undergraduate: \$20,000
Graduate: \$40,000

Perkins Overaward resolution

Overawards are discussed in detail in
Volume 5

Maximum loan eligibility calculation

Loan limits cite

34 CFR 674.12

Note: All borrowing, including graduate level borrowing, counts against the undergraduate aggregate limit of \$20,000. In other words, the undergraduate loan limit applies to all loans, not just loans taken out as an undergraduate.

Disclosure

34 CFR 674.16(a)

Promissory Note

34 CFR 674.31

The aggregate loan limits now include only unpaid principal. (Previously, a student who had borrowed the maximum cumulative amount for a graduate or professional student would not be eligible for another loan even if the student had repaid part or all of the amount he or she had borrowed.) The maximum aggregate amount an eligible student may now borrow is: (1)\$20,000 for an undergraduate student who has completed two academic years and is pursuing a bachelor's degree; (2)\$40,000 for a graduate or professional student, including loans borrowed as an undergraduate student; and (3)\$8,000 for any student who has not completed two academic years of undergraduate work.

The annual maximums and aggregate maximums for both undergraduates and graduates include any amounts borrowed previously under the Federal Perkins Loan Program. Loans taken out as both undergraduate and graduate student status count toward the \$20,000 undergraduate limit.

Because previous aggregate loan maximums were not tied to the completion of two academic years of undergraduate work, schools may have inadvertently created an overaward by awarding more than \$8,000 to borrowers who had not completed two undergraduate years. The Department will not require schools to resolve such overawards if they were made prior to the publication of the revised statutory maximums.

A school may disburse a Perkins Loan to a student engaged in a program of study abroad if the student meets all eligibility requirements and is enrolled in an eligible program at the school that will accept credits earned abroad. If the reasonable costs of the foreign study program exceed the cost of attending the home school, the awarded Perkins Loan may exceed the annual and/or aggregate loan limits by up to 20%.

A student enrolled in a teacher certification program may be considered either an undergraduate or a graduate student as determined by the school. A teacher-certification student who is considered to be a graduate student and who has already borrowed the maximum aggregate allowed for an undergraduate is eligible to receive an additional Perkins Loan or NDSL. A teacher-certification student who is considered to be an undergraduate student and who has already borrowed the maximum aggregate allowed for an undergraduate is not eligible to receive an additional Perkins Loan or NDSL.

DISCLOSURE TO STUDENTS

Before making the first Perkins Loan or NDSL disbursement for an award year, the school must inform the student of his or her rights and responsibilities under the Federal Perkins Loan Program. The school must also remind the student that the loan may be used only for educational expenses and that the loan must be repaid. The school should also inform the student that the **school** holds the MPN.

Retention of records cite

34 CFR 674.19(e)(4)(iii)

The school must disclose all information to the student **in writing**—as part of the application material, as part of the promissory note, or on a separate form. Although the information can be mailed to a student, it is preferable for the aid administrator to meet with the student to answer any questions and to emphasize his or her responsibility to repay the loan.

The school must review all of the repayment terms in the promissory note. In addition, the school must give the following information to the student:

- the name and address of the school to which the debt is owed and the name and address of the official or servicing agent to whom communications should be sent;
- the maximum annual and aggregate amounts the student may borrow;
- the effect that accepting the loan will have on the borrower's eligibility for other types of student aid;
- a statement of the total cumulative balance owed by the student to that school and an estimate of the monthly payment amount needed to repay that balance;
- options the borrower may have to consolidate or refinance;
- a brief notice about the Department of Defense program for repaying loans based on certain military service;
- a complete list of charges connected with making the loan, including whether those charges are deducted from the loan or whether the student must pay them separately; and
- a notice that the school will report the outstanding balance of the loan to a national credit bureau **at least annually**.

The school should also update the identification and contact information in the promissory note and collect the following additional contact information:

- the name, address, and telephone numbers of the borrower's parents and spouse;
- the spouse's employer; and
- the names and addresses of two or three of the student's personal acquaintances.

A school may not require a borrower to provide this additional contact information as a condition for receiving a subsequent Perkins Loan. However, the additional contact information gained during loan counseling could be valuable later for use in collection procedures, and it will help the school locate a student who leaves school without notice or who does not attend the exit interview. This counseling may not be used to satisfy the requirement for an exit interview. (See chapter 5 of this volume.)

Perkins MPNs

You must use the Federal Perkins MPN for all Perkins loans.

See Dear Colleague letters CB-03-11, CB-03-13, and CB-03-14 on IFAP (www.ifap.ed.gov) for the Perkins MPN and eMPN and implementation guidance on these forms.

New Perkins eMPN

DCL CB-06-11

Master Promissory Note defined

The following new definitions are in effect:

A **Master Promissory Note (MPN)** is a promissory note under which the borrower may receive loans for a single award year or multiple award years.

The **making of a loan** occurs when the school makes the first disbursement of a loan to a student.

You must ensure that each Perkins Loan is supported by a legally enforceable promissory note.

You can no longer make a loan under an MPN:

- more than 10 years from the date the borrower signed the MPN or the date you received the MPN (schools can still disburse a remaining portion of a loan after this date);
- more than 12 months after the date the borrower signed the MPN, if you make no disbursement under that MPN;
- after the date you are notified by the borrower to stop using the MPN.

PROMISSORY NOTE

The promissory note is the legally binding document that is evidence of a borrower's indebtedness to a school. The note includes information about the loan's interest rate, repayment terms, and minimum rates of repayment; deferment, forbearance, and cancellation provisions; credit-bureau reporting; late charges, attorney fees, collections costs, and consequences of default.

For loans made using the closed-end or open-end promissory notes, the borrower was required to sign the promissory note prior to the first disbursement of each Perkins Loan the borrower received. For loans made using the Perkins Master Promissory Note (MPN), the borrower is only required to sign the MPN once, prior to the first disbursement of the borrower's first Perkins Loan.

If the school does not have a valid note or other written evidence that would be upheld in a court of law, the school has no recourse against a borrower who defaults. Two examples of invalid notes are notes that have been changed after they were signed and notes without proper signatures or dates. In such cases, the school would have to repay to its Perkins Loan Fund any amounts loaned, whether recovered from the borrower or not, as well as any Administrative Cost Allowance (ACA) claimed on those amounts.

If an error is discovered in a promissory note, the school should obtain legal advice about what action it should take. The appropriate school official and the student should sign by or initial all approved changes in the note.

When the borrower has fully repaid the Perkins Loan, your school is no longer required to mark the original note "paid in full," have it certified by an official of the school, and give it back to the borrower. You may also now notify the borrower in writing that the loan is paid in full. The school must keep a copy of the note for at least three years after the date the loan was paid in full.

Master promissory note

A school must use a promissory note that the Department has approved. In Dear Partner Letter CB-03-14, dated August 2003, the Department issued the Perkins Master Promissory Note (MPN). The MPN must be used for all new loans for Perkins and former NDSL borrowers made on or after November 1, 2004.

In Dear Colleague Letter CB-03-13, dated August 2003, the Department issued an electronic version of the Perkins Master Promissory Note (Perkins eMPN). Before implementing the eMPN, your school should review the Standards for Electronic Signatures in Electronic Loan Transactions published in Dear Colleague Letter GEN-01-06, dated May 2001. The standards are voluntary; however, adherence to the standards will provide your school some protection should a court find a loan unenforceable due to the processing of an electronic signature or related records (see boxed text for more information).

ELECTRONIC SIGNATURE STANDARDS: HIGHLIGHTS FOR eNOTES

(For complete instructions, see the Standards for Electronic Signatures in Electronic Loan Transactions (Standards) in Dear Partner Letter GEN-01-06, dated May 2001.)

Why apply these standards?

If your school's system for processing Perkins eNotes adheres to the standards and a court finds the loan legally unenforceable based solely on the processing of the electronic signature or related records, the Department will not consider your school liable for the loan and will not require your school to reimburse its Perkins Loan Fund.

If your school's system for processing Perkins eNotes does not adhere to the standards and a court finds the loan legally unenforceable based solely on the processing of the electronic signature or related records, the Department has the option to require your school to reimburse its Perkins Loan Fund.

Verify the borrower's identity. Verify the borrower's electronic signature.

Collect at least the following identifying information: name, Social Security number, driver's license number, date of birth. Verify the borrower's identity by authenticating this data with an independent source such as a national commercial credit bureau, a commercial data service, a state motor vehicle agency, or a government database.

The electronic signature may be a PIN, a password, another unique credential, a biometric value unique to the borrower, such as a fingerprint or retinal pattern, or a signature image. A typed name must be paired with one of the above to constitute an electronic signature.

Ensure that the electronic signature is secure.

Get the borrower's consent. Make sure the borrower understands.

Obtain consent from the borrower to use an electronic record. It must be clear that the borrower has consented to use a Perkins eNote in place of a paper promissory note. Require the borrower to confirm that he or she has the necessary hardware and software to view, print, download, or otherwise complete the electronic signature process. Keep a record showing that the borrower gave this consent prior to electronically signing the Perkins eNote.

Ensure that the borrower understands he or she is signing a promissory note. The borrower must click through all terms and conditions of the Perkins eNote and acknowledge that he has read the terms and conditions.

Notify the borrower when his or her electronic signature is about to be applied to the Perkins eNote. Give the borrower an opportunity to cancel the signature process.

After the borrower signs the Perkins eNote, provide the borrower with reasonable access to the full electronic record of the eNote.

A Master Promissory Note is a promissory note under which the borrower may receive loans for a single award year or multiple award years. Because the MPN can be used to award Perkins Loans on a multi-year basis, there is no box for loan amount or loan period on the note. If you choose to use the MPN as a single award-year promissory note, the borrower must sign an MPN for each award year. The borrower signs a new Perkins MPN for each subsequent award year. When used as a multi-year note, the borrower signs the MPN only once, before the first disbursement of the borrower's first Perkins Loan.

Perkins Paper MPN Mailing Address

Department of Education
P.O. Box 5692
Montgomery, AL 36104

The signed MPN covers all loans that the school makes to the borrower until the MPN expires. You may make Perkins Loans under an MPN for up to 10 years from the date the borrower signed the MPN. However, the first disbursement must be made within 12 months of the date the borrower signed the MPN. If no disbursements are made within that 12 month period, the borrower must sign another MPN before receiving a Perkins Loan. In addition, no further loans may be made under an MPN after the school receives written notice from the borrower requesting that the MPN no longer be used as the basis for additional loans.

Your school must provide the disclosure information described earlier in this chapter annually before the first disbursement of each Perkins Loan made under the MPN. In addition, you must notify the borrower of each disbursement of a Perkins Loan made under the MPN. This notification should inform the borrower of the amount disbursed, and provide the borrower with an opportunity to cancel the disbursement, or cancel the Perkins Loan. You will need to retain subsidiary records of disbursements and adjustment to satisfy the requirement that each Perkins Loan is supported by a legally enforceable promissory note. Actual disbursement records or student account records would serve this purpose.

Making Changes to the MPN

You may not make changes to, deletions from, or additions to the prescribed language on the MPN. However, you may delete bracketed text. Of course, you may print information (name, address, and telephone number) identifying your school in Section B, Item 6. You may also use appropriate coding (for example, bar coding to reflect the source, type, or other identification system for filing or processing) in this area.

Limits to promissory note changes cite

34 CFR 674.31(a)

You may print bar coding or coding identifiers, such as student ID number or loan number, in the side or bottom margins to meet the requirements of your school's processing systems. You may not print these coding identifiers on the promissory note in a way that would alter the general layout of the note. You may also print in the lower margin of the note a reference to the type, for example: original, student copy, file copy.

You may adjust the height of the boxes in Sections A and B to meet the requirements of individual processing systems, as long as the change doesn't alter the general format of the form, result in reduced point size, move text from one page to another, or otherwise change the general presentation of the form.

You must print the original and borrower copies of the promissory notes with black ink on white paper. You may not change the typeface, point size, and general presentation of the form from the documents approved by the Department. However, you may print your school's identifying information located in Section B, Item 6 in another color to make your school's name and address more pronounced. It is preferable to print the MPN on two sheets of paper, front and back. However, you may print the MPN on four single-sided pages as well.

Closed-end and Open-end Promissory Notes

The Perkins closed-end and open-end promissory notes expired on October 31, 2004. You **must** use the MPN for all loans made on or after November 1, 2004. Implementation guidance for the Perkins closed-end and open-end promissory notes was provided in Volume 5, Chapter 3, of the 2003-2004 FSA Handbook.

Minimum Monthly Payment Option

The optional provision regarding a minimum monthly repayment amount is included as a single, optional sentence at the end of the repayment paragraph on page 1 of the MPN. You would include this sentence in the MPN if your school is exercising the minimum monthly payment amount provision. Page 2 of the MPN includes a summary of this provision.

If the optional provision is included in the school's note, a minimum monthly payment of \$40 is required for a loan made on or after October 1, 1992, to a borrower who had no outstanding balance on a Perkins Loan, NDSL, or Defense Loan on the date the loan was made (for other borrowers, the monthly minimum amount remains \$30).

MASTER PROMISSORY NOTE—QUESTIONS AND ANSWERS

LOAN AMOUNT AND LOAN PERIOD

Q. Why are there no boxes for the loan amount and loan period on the MPN?

A. The borrower only signs the MPN once, prior to disbursement of the borrower's first loan. Since the MPN can be used as either an annual or multi-year promissory note, it does not contain specific reference to the dollar amount of the loan to be disbursed, the disbursement dates, or the enrollment or award period covered by the loan.

Q. If a school chooses to use the MPN on an annual basis, can the school put boxes on the MPN for the award amount and the loan period?

A. No. The MPN is a federal form approved by the Office of Management and Budget (OMB). Schools may not add data elements to an OMB-approved form. Schools may only make minimal modifications to the MPN, as described in Dear Colleague Letter CB-03-14 and elsewhere in this chapter.

NOTIFICATIONS AND DISCLOSURES

Q. Schools must provide loan amount and loan period information to the borrower through a means other than the MPN. Has a prototype been developed to meet this requirement?

A. The Department has not developed a prototype for providing loan amount or loan period information to borrowers. Schools may provide this information in any number of formats. This information may be provided in Award Letters or other written notifications and disclosures that schools are required to provide to the borrower.

Q. If a borrower's loan amount increases or decreases, should the school send the borrower a notification of the change in the amount borrowed?

A. Yes. Since the change in loan amount will not be reflected on the MPN, the school should notify the borrower, in writing, of the increase or decrease.

Q. What is the time frame for notifying borrowers that a disbursement has been made under the MPN? What information must be included in this notification?

A. When a school credits a Perkins Loan disbursement to a borrower's account, the school must notify the borrower of the date and amount of the disbursement, the borrower's right to cancel all or part of the disbursement, and the procedures for notifying the institution that the borrower wishes to cancel the loan or the loan disbursement. The school must send this notification to the borrower no earlier than 30 days before, and no later than 30 days after, crediting the borrower's account.

QUESTIONS AND ANSWERS, CONTINUED

Q. How frequently should the statement of the total cumulative balance be provided to the borrower? Is this a statement of the total amount borrowed, or the total amount owed? What amount should be used if a borrower makes payments on the loan while still in school?

A. Each Perkins Loan received under an MPN is a separate and distinct loan. The disclosure information must be provided to the borrower annually, before the first disbursement of each new Perkins Loan awarded under the MPN. The disclosure information must include a statement of the total cumulative balance owed by the borrower to the school and an estimate of the monthly payment amount needed to repay the balance. In the case of a borrower who makes payments on the loan while still in school, the statement of cumulative balance owed by the borrower should be adjusted to reflect those payments.

RECORD RETENTION

Q. Should a school retain a record of the date and amount of each disbursement in the borrower's file to document that the borrower received the loan?

A. Yes. Since this information is not shown on the MPN, the school should maintain documentation of the loan amount, award period, and disbursement dates as part of the borrower's records. Disbursement records or student account records showing a Perkins Loan credit would serve this purpose.

Q. Are third party servicers' records sufficient to satisfy a school's need to retain supporting records showing loan amount, award period, and disbursement dates?

A. Unless the servicer is performing loan origination and disbursement functions for the school, only school records definitively show that the borrower was enrolled, the borrower's account was credited from Perkins loan funds, and the date and amount of disbursements. With certain borrower challenges, third party servicer records may not be sufficient.

OTHER TRANSITION ISSUES

Q. After implementing the MPN, can a school add disbursements from a previous Perkins or NDSL open-end promissory note, rather than close that previous note?

A. No. A school may not add disbursements from a previous Perkins or NDSL promissory note to an MPN. The school must close the previous open-end notes and make all subsequent loans on or after November 1, 2004 using the MPN.

QUESTIONS AND ANSWERS (CONTINUED)

Q. Will the Department be issuing an NDSL MPN to replace the NDSL promissory notes that will expire on October 31, 2004?

A. No. Because there are so few NDSL borrowers who are likely to be enrolled, the Department has determined that it is unnecessary to continue to issue separate NDSL promissory notes. The bracketed sentence at the end of the repayment paragraph of the MPN provides for a \$30 minimum monthly payment for borrowers who have an outstanding balance on an NDSL. With the 1998 Amendments to the Higher Education Act, most of the remaining terms and conditions of an NDSL became the same as those of a Perkins Loan.