

Volume 6 Managing Campus-Based Programs

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Participation, Fiscal Procedures & Records

This chapter addresses fiscal procedures and recordkeeping requirements that are specific to the Campus-Based programs. For information on general fiscal procedures and records requirements for all Federal Student Aid (FSA) programs, refer to Volume 2, School Eligibility and Operations, and the current edition of the Blue Book.

A school applies for and receives Campus-Based program funds directly from the U.S. Department of Education by submitting the *Fiscal Operations Report and Application to Participate* (FISAP), each award year. The school's financial aid administrator is responsible for ensuring that eligible students at the school receive program funds according to the provisions of the law, the regulations the Program Participation Agreement (PPA) signed by both a representative of the Secretary of Education and the school's chief administrative officer, and other criteria the Department may establish.

PROGRAM PARTICIPATION AGREEMENT

A school that wants to participate in any Federal Student Aid (FSA) program must sign a Program Participation Agreement (PPA) with the Department. The school official legally authorized to assume the agreement's obligations on the school's behalf must sign the agreement.

Under the PPA, the school agrees to use the funds it receives solely for the purposes specified in the regulations for that program and to administer each program in accordance with the Higher Education Act of 1965 (HEA), as amended, and the General Provisions regulations. (For more information on this agreement and the General Provisions requirements for all FSA programs, see *Volume 2, School Eligibility and Operations*.)

The Federal Perkins Loan and Federal Work-Study (FWS) programs have additional requirements that are part of the PPA and that are specific to the individual program as described in this volume.

CHAPTER 1 HIGHLIGHTS

- Program Participation Agreement
- FISAP Report and Application
- Allocation of funds
- Reallocation
- Transfer of funds
 - FWS to FSEOG or Perkins
 - FSEOG to FWS
- Carry forward/Carry back
- Federal/Nonfederal share
- Use of FWS allocated funds
 - Community service waivers
- Recordkeeping
- Record Retention & Formats
- Perkins reimbursement & assignment
- Administrative cost allowance

Campus-Based PPA requirements

- 34 CFR 673.3
- Perkins PPA
- 34 CFR 674.8
- Federal Work-Study PPA
- 34 CFR 675.8

NEW Treatment of FWS in 90/10 calculation

FWS funds recovered by the school are excluded from revenues in the 90/10 calculation, unless the school used those funds to pay for a student's institutional charges. (See *Volume 2* for discussion of the 90/10 calculation)

Federal Capital Contribution (Perkins)

Congress has not authorized any Federal Capital Contribution (FCC) through the 2010-2011 application year.

Perkins PPA Requirements

The agreement requires the school to annually submit to the Department a report containing information that determines the school's Perkins default rate.

The agreement for the Federal Perkins Loan Program also requires the school to establish and maintain a Fund and to deposit into the Fund:

- any Federal Capital Contribution (FCC) the school receives as its federal allocation for the program for each award year (currently no FCC is being allocated to schools in the Perkins Loan Program);
- the institution's capital contribution (ICC), including any ICC to match transfer of funds from other Campus-Based programs;
- payments the school receives for repayment of loan principal, interest, collection charges, and penalty or late charges on loans from the fund;
- payments the school receives from ED for cancellations, such as teacher service cancellations, (see Chapter 5 of this volume);
- any other earnings on fund assets, including net interest earnings on funds deposited in an interest-bearing account (total interest minus bank charges incurred on the account); and
- proceeds of any short-term no-interest loans the school makes to the fund in anticipation of receipt of its FCC or of loan collections.

Federal Work-Study PPA Requirements

Under the Program Participation Agreement, schools participating in the Federal Work-Study (FWS) Program must:

- make FWS employment reasonably available, to the extent of available funds, to all eligible students;
- award FWS employment, to the maximum extent practicable, that will complement and reinforce each recipient's educational program or career goals;
- assure that FWS employment may be used to support programs for supportive services to students with disabilities; and
- inform all eligible students of the opportunity to perform community services and consult with local nonprofit, government, and community-based organizations to identify those opportunities.

FISAP REPORT AND APPLICATION

Application for funds

To apply for and receive funds from the Department for one or more of the Campus-Based programs, a school must submit a FISAP for each award year. The Department posts instructions for submitting the FISAP in July in a Dear Colleague Letter on the IFAP Web site.

On Part II of the FISAP, you will report enrollment and aid eligibility information, such as the amount of tuition and fees your school assessed, total Pell, ACG, National SMART funds disbursed, and the number of eligible aid applicants at your school at different income levels. The information reported on the FISAP must be accurate and verifiable, as it will be used in the funding allocation formula (see next section).

You must submit your school's FISAP by October 1. Although most of the information on the FISAP is submitted electronically, please remember that you must print the combined certification and signature pages for your FISAP submission, obtain the required signatures, and mail these documents (with the original signatures) to the Department's FISAP Administrator.

Reporting expenditures

The school uses the Fiscal Operations Report portion of the FISAP to report its expenditures under the Campus-Based programs in the previous award year.

e-CampusBased

FISAP on the Web is available through the eCampus-Based Web site at: www.cbfsap.ed.gov.

To submit the FISAP on the Web, you must have a User ID and password. If you do not have a User ID and password, go to the eCampus-Based Web site, select "Login," and select the registration link. Once you have registered, you will receive your User ID via email.

First-time Campus-Based program applicants

A school that has applied to participate in the Campus-Based programs for the first time should submit a FISAP by the deadline even if the school has not been certified to participate in the programs. The Department will calculate a funding level for the school and put the funding on "hold" status until the school has been approved to participate. See "Allocation of Funds" for more information.

Use the 2009 FISAP to:

Apply for 2010–2011
Funds

Report 2008–2009
Expenditures

Completing the FISAP

FISAP on the Web

Schools submit the FISAP through the FISAP on the Web, available at: www.cbfsap.ed.gov

The FISAP is available for completion on the Web by August 1 of each year. It must be completed no later than October 1 of the same year. If October 1st falls on a weekend, the deadline is moved back to the previous business day.

A list of all Campus-Based submission dates is posted on the **FISAP on the Web** site.

Schools may also make corrections via the **FISAP on the Web site**.

For assistance submitting corrections for closed years, or for questions concerning the preparation of the FISAP, schools should contact the Campus-Based Call Center at **1-877-801-7168** or **CBFOB@ed.gov**.

Certifications on the FISAP

Part I of the FISAP includes two required certifications:

1. Form 80-0013, Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements.
2. Standard Form LLL, Disclosure of Lobbying Activities (should only be completed if a school expends funds for lobbying activities)

See *Volume 2* for more information on these requirements.

Campus-Based Call Center

For assistance, contact the Campus-Based Call Center at **1-877-801-7168** between 8 a.m.–8 p.m. Eastern time. You may also email the Call Center at cbfob@ed.gov

Release of tentative & final funding levels

Your school's funding levels and corresponding worksheets will be posted in the "Self-Service" area on the eCB Web site before your school's Campus-Based contact person will be notified by e-mail when the tentative and the final funding levels are issued.

Allocation of funds
HEA 462(a)
34 CFR 673.4

Withholding final allocations

In some cases, ED calculates a school's final allocations, but does not issue the final allocation by April 1st. We may withhold a school's final allocation if:

- the school lost its eligibility to participate in FSA programs;
- the school is a new applicant for the FSA programs and/or for Campus-Based programs and has not been approved yet; or
- we have not received the FISAP signature/certification form with the required original signature of the school's CEO.

When the reason(s) for holding the school's final allocation is/are resolved, we will release the school's final allocation.

ALLOCATION OF CAMPUS-BASED FUNDS

The Department allocates funds for each of the Campus-Based programs directly to schools each award year in the amount of funding the school is authorized to receive from the Department for an award year. The Department bases the allocation amount on statutory formulas and program funding. A school will not, however, receive an allocation that is in excess of its request. Your school's initial allocation is based on the amount allocated for the base award year, 1999–2000.

If your school submits the FISAP by the 1st of October, the Department provides your school with tentative allocation information in January of the following year and with final allocation information by the 1st of April. A school is notified via e-mail when its tentative or final allocation information is available in the "Self-Service" section of the *eCampus-Based* Web site.

If a school does not use its total allocation of funds for the Campus-Based programs, the school must release unexpended amounts to the Department. In June/July, the Department posts a Dear Colleague Letter on IFAP that requests schools to release any previous award year funds that they have not expended and offers schools the opportunity to request supplemental FWS funds for community service. The Reallocation Form for schools wishing to return funds or request supplemental FWS funds can be found in the Setup section of the *eCampus-Based* Web site.

REALLOCATION OF FUNDS

You must complete the Campus-Based Reallocation Form (on the *eCampus-Based* Web site) if:

- you do not intend to spend your entire allocation in any of the Campus-Based programs, or
- you want to request supplemental FWS funds to pay students in community service jobs (based on the criteria discussed below).

A school may request supplemental FWS funds if it

- has spent at least 5% of its total FWS funds for the award year to compensate students employed as reading tutors of children or in family literacy activities as part of its community service activities; and
- has an FWS fair share shortfall as shown on the school's final funding worksheet, provided with the final allocation letter.

Releasing unused funds

After schools release their unexpended allocations, the Department reallocates the funds to schools that have met the criteria for receiving a supplemental allocation (based on statutory and regulatory guidelines).

If a school returns more than 10% of its allocated funds for a given award year under any one of the Campus-Based programs, the Department will reduce the school's allocation for the second succeeding award year by the dollar amount returned unless the Department waives this provision.

Reduction of allocation

34 CFR 673.4(d)(3)

Waiver of allocation reduction

To request a waiver, a school must submit an explanation of the circumstances with its FISAP. ED explains the process a school must use to request a waiver in the FISAP Instruction Booklet.

ED may waive this provision for a specific school if the school returned more than 10% of its allocation due to circumstances that are beyond the schools' control, and are not expected to recur.

Reallocation of unexpended Campus-Based funds

ED reallocates 80% of returned Perkins loan funds in accordance with 462(i) of the HEA and reallocates 20% in a manner that best carries out the purposes of the program. Unexpended FSEOG funds returned to ED will be reallocated to an eligible school in a manner that best carries out the purposes of the FSEOG program.

FWS funds to FSEOG cite

34 CFR 675.18(e)

G5: transferred FWS funds

Any FWS funds transferred to FSEOG must be entered in G5 as an expenditure against the FWS Program, not the FSEOG Program.

NEW**New C-B fund transfer provisions**

Under the HEOA of 2008, a school may now transfer up to 25% of the school's FWS allotment to their Perkins Loan Program allotment in addition to the FSEOG Program allotment, which was already permitted. The HEOA also permits a school to transfer up to 25% of the school's FSEOG allotment to the school's FWS allotment.

HEOA section 494A

HEA section 488

Effective date: August 14, 2008

Transfer of FWS based on Perkins LOE

The school does not need to receive a Perkins Loan FCC allocation for an award year in order to transfer an allowable percentage of its FWS allocation for that award year to the Federal Perkins Loan Program. This is because the school has a revolving loan fund for the Perkins Loan Program. However, the school would need to have a Perkins Loan Level of Expenditure (LOE) from ED for that award year. The LOE is the authority from ED for the school to participate and spend monies from the Perkins Loan Fund for that award year, including making new loans to students. The official FWS allocation letter and the Perkins Loan LOE is the school's authority to exercise the FWS to Perkins Loan transfer option.

Perkins transfer to FWS or FSEOG

In those years when Federal Capital Contribution was allocated to schools, schools were allowed to transfer up to a total of 25% of their total Federal Perkins Loan allocation (initial plus supplemental) for an award year to either or both the Federal Supplemental Educational Opportunity Grant (FSEOG) and Federal Work-Study (FWS) programs.

TRANSFER OF CAMPUS-BASED FUNDS

Several general rules apply to the transfer of funds between Campus-Based programs:

- You must award transferred funds according to the requirements of the program to which they are transferred.
- You must report the transfer of funds on the Fiscal Operations Report portion of the FISAP.
- Any transferred funds that are unexpended must be transferred back to the original program at the end of the award year.

Federal Work-Study transfer to FSEOG or Perkins

Effective August 14, 2008, a school may transfer up to a total of 25% of its FWS allocation (initial plus supplemental) for an award year to its Perkins FCC allocation or FSEOG allocation, or both. This means that the total dollar amount of the FWS allocation transferred to both programs may not exceed 25% of the FWS allocation. (The FWS allocation does not include any amounts that may have been carried forward or carried back from other award years, as discussed in the next section.)

If the school wants to transfer an allowable percentage of its FWS allocation to the FSEOG Program or transfer an allowable percentage of its FSEOG allocation to the FWS Program, the program that the school wants to transfer funds to must also have an allocation for that same award year. The official allocation letter for both the FWS and FSEOG programs for the same specific award year is the school's authority to exercise the FWS and FSEOG transfer of funds option from one to the other.

Your school must match any FWS funds transferred to FSEOG at the matching rate of the FSEOG Program, but the match doesn't have to be made until the transfer has occurred.

Your school may transfer up to 25% of its total FWS allotment allocation (initial and supplemental) to its Perkins Loan fund, in addition to the FSEOG Program allotment. Your school must have a Perkins Loan Level of Expenditure from the Department for the award year in order to do this. The Department's permission is not required.

FSEOG transfer to FWS **NEW**

A school may now transfer up to 25% of its FSEOG allocation to its FWS allocation. (The school must have an FWS allocation to be able to transfer the funds.)

Example: transferring funds



Example: Mimosa Tech has a \$20,000 FWS allocation, but only \$18,000 of FSEOG. The aid administrator decides to transfer the maximum 25% of FWS to the FSEOG program.

FWS	FSEOG
\$20,000 *	\$18,000
- 5,000	+ 5,000
\$15,000	\$23,000

FWS carry forward/carry back

34 CFR 675.18(b)

34 CFR 675.18(c)

G5: Funds Carried Forward/Back

Any FWS funds carried forward or carried back between award years must be entered in G5 as an expenditure against the FWS authorization for the award year from which the funds were taken, not the authorization for the award year in which the funds were used. The same requirement holds for FSEOG funds

FSEOG & FWS CARRY FORWARD/CARRY BACK

Carry Forward

Your school may spend up to 10% of its current year's FWS or FSEOG allocation (initial and supplemental) in the *following* award year (carry forward). Before a school may spend its current year's allocation, it must spend any funds carried forward from the previous year.

Carry Back

Your school is also permitted to spend up to 10% of its current year's FWS or FSEOG allocation (initial and supplemental) for expenses incurred in the *previous* award year (carry back).

Your school must match FWS or FSEOG funds carried forward or carried back in the award year that they are spent. A school's future FWS or FSEOG program allocation is not affected by carrying forward or carrying back funds between award years.

You may "carry back" FWS funds for summer employment; that is, you may use any portion of your school's initial and supplemental FWS allocations for the current award year to pay student wages earned on or after May 1 of the previous award year but prior to the beginning of the current award year (July 1). This summer carry back authority is in addition to the authority to carry back 10% of the current year's FWS allocation for use during the previous award year.

Also, your school may spend any portion of its current award year's initial and supplemental FSEOG allocations to make FSEOG awards to students for payment periods that begin on or after May 1st of the prior award year but end prior to the start of the current award year (carry back for summer). This carry-back authority for summer FSEOG awards is in addition to the authority to carry back 10% of the current award year's FSEOG allocation for use during the previous award year.

On the FISAP, you must report FWS or FSEOG funds that your school carries back and carries forward. For example, if a school carried forward 10% of its FWS 2008–2009 allocation to be spent in 2008–2009, the school must report this amount on the FISAP (due October 1, 2009) in Part V of the Fiscal Operations Report for 2008–2009.

General principles

The official allocation letter for a specific award period is the school's authority to exercise these options. A school may not carry forward or carry back FWS funds to any award year in which there is no specific FWS allocation and the same requirement holds for FSEOG funds.

FWS limitations on use of funds carried forward or back

Schools are not permitted to add funds that are carried forward or back to the total FWS allocation for an award year when determining the maximum percentage of available funds that may be used in that award year for any of the following purposes:

- transferring FWS funds to FSEOG;
- providing the federal share of wages in private for-profit sector jobs; or
- the Job Location and Development (JLD) Program.

For example, if a school carries \$10,000 forward from 2008–2009 to 2009–2010, it may not include the \$10,000 in the total 2009–2010 FWS allocation for the three purposes above. For these purposes, the 2009–2010 percentage is based on a school’s total 2009–2010 original FWS allocation plus any supplemental FWS allocation for the 2009–2010 year.

Wages from federal agency

The portion of the FWS wages contributed as the school share by a federal off-campus agency is not considered part of the “federal share.” Thus, a federal agency may provide the required share of student compensation normally paid by off-campus agencies plus any other employer costs that they agree to pay.

Carry forward/carry back

Rule: for both the FWS and FSEOG programs: a school may transfer up to 10% of its current year allocation (initial & supplemental) *forward* to the next award year, or *back* to the previous award year.

Federal shares cites

Federal share limitation for FWS

34 CFR 675.26

Job Location & Development

34 CFR 675.33(b)

Job Location & Development

The HEOA increases the funds for the Job Location and Development Program to not more than 10% or \$75,000 of a school's FWS allocation, which is an increase from not more than 10% or \$50,000, effective August 14, 2008.

The federal share of allowable costs in carrying out the JLD Program may not exceed 80% of such costs. (See Chapter 2 of this volume.)

Full federal share of FWS wages for schools under 34 CFR 606-609

The Department may authorize a federal share of 100% of FWS wages at schools designated as eligible schools under 34 CFR parts 606, 607, 608, or 609 (Hispanic-Serving Institutions, Historically Black Colleges and Universities, and institutions eligible under the Strengthening Institutions program).

The work performed by the student must be for the school itself, for a federal, state, or local public agency, or for a private nonprofit organization. Your school is considered to have applied for a waiver of the nonfederal share requirement if your school is designated as an eligible school and your school submits a complete FISAP by the established deadline. Such schools will receive a letter from the Department indicating that they have been granted a waiver of the FWS nonfederal share requirement. (For more information, see *The Blue Book* on IFAP.)

FEDERAL SHARE LIMITATION

Federal share of FWS

In general, the federal share of FWS wages paid to a student may not exceed 75% of the student's total wages. However, there are some important exceptions to this rule, as described below.

If the student is working for a private for-profit organization, the federal share of the student's wages may not exceed 50%.

On the other hand, a school may use the federal share to pay up to 100% of the FWS wages paid to a student who is

- performing civic education and participation activities in community service projects,
- employed as a reading tutor for preschool-age children or elementary school children,
- employed as a mathematics tutor for children in elementary school through ninth grade, or
- performing family literacy activities in a family literacy project that provides services to families with preschool age children or elementary school children.

A school is not required to ask the Department for a waiver of the FWS nonfederal share requirement to receive the 100% federal share authorization for an FWS student employed in one of these jobs. Instead, the school should use 100% federal dollars to pay such a student and then show on its FISAP that it did so. (See Chapter 2 for a more detailed discussion of eligible jobs and employers.)

A school may use the federal share of FWS wages to pay up to 90% of a student's wages if:

- The student is employed at a private nonprofit organization or a federal, state, or local public agency. (Employment at the school itself is not eligible.)
- The school does not own, operate, or control the organization or agency. To satisfy this requirement, your school must keep a statement in the school's file, signed by both the agency and the school, stating that they have no such relationship.
- The school selects the organization or agency on an individual, case-by-case basis. This requirement is satisfied when the school selects the agency through its normal process of selecting potential employers.
- The organization or agency must be unable to pay the regular nonfederal share. To satisfy this requirement, the school must keep in its file a signed letter from an official of the agency stating that the agency cannot afford to pay the regular nonfederal share.
- The 90% federal share is limited to no more than 10% of the students paid under the FWS Program. For purposes of this calculation, the school must use the total number of

FWS students paid during the current award year. The 10% limit on the number of students paid with the 90% federal share does not include students whose FWS wages have been exempted from the full nonfederal share requirement due to being employed as a reading tutor, mathematics tutor, or performing family literacy activities.

Federal share of Perkins

The federal funds allocated to a school in an award year under the Federal Perkins Loan Program are called the Federal Capital Contribution (FCC), and the matching share is called the Institutional Capital Contribution (ICC). Note that Congress has not authorized new Federal Capital Contribution for 2009–2010. See prior-year Handbooks for guidance on how the FCC/ICC match has been treated in those years.

Federal share of FSEOG

The federal share of FSEOGs made by a school may not exceed 75% of the total FSEOGs. The school must contribute a nonfederal share (also called “institutional share”) of 25%.

Separate FISAP for locations ineligible for waiver

If your school files a FISAP on behalf of two or more separately eligible school locations, but not all of these locations are eligible for a waiver of the nonfederal share requirement, you must file a separate FISAP for any locations that are not eligible for a waiver of the nonfederal share requirement. Only those locations that are eligible will receive a waiver of the nonfederal share requirement.

Contributing greater than minimum nonfederal share of FWS

An employer can choose to contribute more than the minimum required nonfederal share. For example, if a school has a large demand for FWS jobs from its various departments, it may contribute more than the usual 25% to allow for additional employment. However, schools should not report any contributions over the 25% requirement on the FISAP.

Waiver of the FSEOG nonfederal share requirement

Your school is considered to have applied for a waiver of the nonfederal share requirement if your school is designated as an eligible school and your school submits a complete FISAP by the established deadline. Such schools will receive a letter from the Department indicating that they have been granted a waiver of the nonfederal share requirement. (For more information, see *The Blue Book*, available on IFAP.)

Waivers for eligible schools under 34 CFR Parts 606-609

ED may waive the nonfederal share requirement for FSEOG and may authorize for an award year a federal share of 100% to a school that is designated as an eligible school under 34 CFR parts 606, 607, or 608 (see below).

ED may waive the institutional share requirement for FWS for a school that is designated as an eligible school under 34 CFR Parts 606, 607, 608, or 609 (see below). If the Department grants a waiver of the FWS requirement, the school has the option of providing an institutional share and determining the amount of the share. However, the institutional share requirements for employment provided by a private for-profit organization (50% federal-share limitation) or for the administration of the JLD Program (80% federal-share limitation) are never waived.

34 CFR Part 606

- Developing Hispanic-Serving Institutions Program

34 CFR Part 607

- Strengthening Institutions Program
- American Indian Tribally Controlled Colleges and Universities Program
- Alaska Native and Native Hawaiian-Serving Institutions Program

34 CFR Part 608

- Strengthening Historically Black Colleges and Universities Program

34 CFR Part 609

- Strengthening Historically Black Graduate Institutions Program

NONFEDERAL SHARE

Nonfederal share of Federal Work-Study

The nonfederal share of a student's FWS wages must be at least 25% each award year, except as noted in the previous section. Your school may use any resource available to pay its share of FWS compensation except federal funds allocated under the FWS Program (or any other program funds where this use is prohibited). The school's share may come from its own funds, from outside funds (such as from an off-campus agency), or from both. However, if a student is employed by a private, for-profit organization, that organization must provide the nonfederal share.

Your school may also pay the institutional share with noncash contributions. If the school's noncash contribution is less than the remaining 25%, the school must make up the difference in cash.

Funds from programs sponsored by federal agencies (such as the National Science Foundation or the National Institutes of Health) may be used to pay the nonfederal share, as long as the programs have the authority to pay student wages. A school should contact the appropriate federal agency to see if the program in question does have this authority.

Nonfederal share of FSEOG

The nonfederal share of FSEOGs must be made from the school's own resources. These resources may include:

- institutional scholarships and grants;
- waivers of tuition or fees;
- state scholarships and grants; and
- funds from foundations or other charitable organizations.

All state scholarships and grants, except for the Leveraging Educational Assistance Partnership (LEAP) and the Special Leveraging Educational Assistance Partnership (SLEAP) programs are eligible funds that may be used to meet the nonfederal share requirement of FSEOGs. LEAP and SLEAP grants, for this purpose, are defined as the federal LEAP and SLEAP allocation plus the minimum required state matching amount. The remaining state grants are not considered LEAP or SLEAP grants, and therefore can be used for the match.

The Department issues Dear Colleague Letters that show the percentage of each state's scholarships that can be used to provide the nonfederal share of FSEOGs. You can apply the appropriate state percentage to the state scholarships and grants your school's students receive to determine the total amount of state scholarships and grants that may be used to meet the FSEOG nonfederal share requirement.

As a variance from use of the percentages indicated in the chart, if a school has specific knowledge that a state scholarship or grant—irrespective of its name—is considered to be the required state

matching portion of a LEAP or SLEAP grant, that scholarship or grant may not be used to meet the FSEOG nonfederal share. Also, if a school has documented knowledge that a state scholarship or grant is not comprised of LEAP or SLEAP monies (federal or state), 100% of the scholarship or grant may be used as the FSEOG nonfederal share.

The nonfederal share requirement of 25% (unless the school qualifies for a waiver) may be met by one of three methods. In the following discussion of these methods, you should note that for a student to meet the definition of an FSEOG recipient, some portion of the grant awarded to the student must have come from the FSEOG federal dollars. Also, by the time the FSEOGs are disbursed (regardless of when in the award period the disbursements are made), the required match must have been accomplished; that is, the school's own resources must have been disbursed before or at the time the federal dollars are disbursed. However, it is important to note that outside resources (such as state grants, foundation, or other charitable organization funds) can be used to match FSEOGs even if the funds are received at a later date, provided that the school has written information about funds that the non-institutional agency or organization is awarding to the student involved. The written information must be kept on file at the school.

The three methods a school may use to meet its nonfederal share follow:

1. Individual FSEOG recipient basis—the school provides its share to an individual FSEOG recipient together with the federal share; that is, each student's total FSEOG would consist of 25% nonfederal resources and 75% federal dollars for the 2009–2010 award year.
2. Aggregate basis—the school ensures that the sum of all funds awarded to FSEOG recipients in the 2009–2010 award year comprises 75% FSEOG federal funds and 25% nonfederal resources. (See sidebar for example)
3. Fund-specific basis—the school establishes an FSEOG fund into which it deposits FSEOG federal funds and the required 25% nonfederal share. Awards to FSEOG recipients are then made from the fund.

Nonfederal share of Perkins

The nonfederal share required from the school's own funds for the Federal Perkins Loan Program is called the Institutional Capital Contribution (ICC). Even though there will be no new FCC for 2009–2010, the school may elect to make its own contributions to the Perkins revolving fund.

Nonfederal share

FWS 34 CFR 675.27

Use of state scholarships & grants as non-federal share of FSEOG

Percentages for 2008–2009 were issued in Dear Colleague Letter CB-08-13, dated November 20, 2008.

State scholarship as nonfederal share component example

Dominic receives a grant of \$675 from a state with a percentage of 96.26. Jacob Broadcasting School multiplies 96.26% by \$675, resulting in \$650, which is the portion of the grant that may be used to meet the nonfederal share requirement for a \$2,600 FSEOG award (\$1,950 is the federal share of the FSEOG award).

Example of aggregate basis for FSEOG nonfederal share

For example, if a school awards a total of \$60,000 to FSEOG recipients in 2008–2009, it has to ensure that \$45,000 comes from FSEOG federal funds and \$15,000 comes from nonfederal resources; if there are 100 FSEOG recipients, the entire \$15,000 nonfederal resource requirement can be met by awarding a total of \$15,000 in nonfederal resources to four FSEOG recipients. However, each FSEOG recipient must receive some FSEOG federal funds.

Allocation

The term allocation always refers to the original initial and supplemental allocation your school receives and never refers to an amount remaining after your school carries forward or carries back funds.

Definition of community service

The definition of community service has been extended to include the field of emergency preparedness and response.

HEOA 441(2)

Effective August 14, 2008.

*Remember that in meeting the community service minimum requirement, one or more of the school's FWS students must be employed as a reading tutor for children in a reading tutoring project or performing family literacy activities in a family literacy project.

7% Citation

34 CFR 675.18(g)

NEW Grants for off-campus & community service

The HEOA authorizes (but does not fund) grants to schools to supplement off-campus and community service employment.

Grant funds would be used to recruit and compensate students performing off-campus community service (including compensation for time spent in training and for travel directly related to the community service). This program is not currently funded and cannot be implemented until funding is provided by Congress.

HEOA section 446 HEA section 447(b)

USE OF FWS ALLOCATED FUNDS

Private for-profit organizations (25% of allocation)

Your school may use up to 25% of its FWS allocation and reallocation for an award year to pay the wages of FWS students employed by private for-profit organizations.

Work-Colleges

An approved school may use part of its FWS allocation for the purpose of meeting the costs of the Work-Colleges Program discussed in Chapter 2.

Community Service Jobs

There are two community service expenditure requirements that a school must meet.

1. A school must use at least 7% of its FWS federal allocation for an award year to pay the federal share of wages to students employed in community service jobs for that year.
2. In meeting the 7% community service requirement, one or more of the school's FWS students must be employed as a reading tutor for children in a reading tutoring project or performing family literacy activities in a family literacy project.

A school may request a waiver of either or both of these requirements by the annual deadline. The school should include detailed information that demonstrates that the requirement would cause a hardship for students at the school. The fact that it may be difficult for the school to comply with these requirements is not, in and of itself, a basis for granting a waiver. See the box on the next page for more information on waivers.

Community service waivers

The Department in the past has approved a limited number of waivers of the community service expenditure requirements for schools that have demonstrated that enforcing these requirements would have caused a hardship for their students. Examples of waiver requests include:

Case Study #1 - Small FWS allocation

The school had a very small FWS allocation. The supporting information submitted by the school noted that 7% of the school's allocation only provided enough funds for a student to work for a short period of time. Therefore, the school was unable to find placement for a student in community service.

Case Study #2 - Rural area

The school was in a rural area that was located far away from the types of organizations that would normally provide community service jobs. The school provided information that showed that its students lacked the means of transportation to get to the town where the community jobs were located. In a similar waiver request in which transportation did exist, a school provided documentation that showed that the transportation costs were extremely high for the students.

Case Study #3 - Specialized program

The school offered only a single program of specialized study that required its students to participate in extensive curriculum and classroom workloads. The school provided information that demonstrated that this specialized educational program prevented the students from performing community service jobs at the time those work opportunities were available.

These examples are not the only circumstances that may result in approval of a waiver request, however, you must always submit a justification of your request.

The Department posts annual announcement to the IFAP Web site describing the electronic waiver process, providing examples of previously approved waivers, and giving the deadline date for that year. For example, the waiver process for 2009–2010 was described in an Electronic Announcement posted on March 24, 2009.

A school must submit its waiver request to the Department electronically via the eCampus-Based (eCB) Web site at: www.cbfsap.ed.gov
Go to the "Community Service Waiver" link at the top of the Setup-Change Years/Schools page.

Reallocation effect on minimum community service expenditures

When a school receives reallocated FWS funds, the minimum amount of FWS federal funds the school must expend on community service jobs for an award year is one of the following two amounts, whichever is greater:

7% of the sum of:

- your original FWS allocation, plus
- your FWS supplemental allocation (if any), minus
- any amount of FWS Federal funds you returned through the reallocation process or earlier

OR

100% of your FWS supplemental allocation (if any)

Retention of records

General Provisions

34 CFR 668.24

Perkins loans

34 CFR 674.19

FWS

34 CFR 675.19

FWS

34 CFR 676.19

CAMPUS-BASED RECORDKEEPING

A school must follow the recordkeeping requirements in the General Provisions (discussed in *Volume 2*), and those specific to the Campus-Based programs.

A school must keep financial records that reflect all Campus-Based program transactions and must keep all records supporting the school's application for Campus-Based funds. This documentation includes the applications and records of all students who applied for Campus-Based assistance for a specific award year and were included on the school's FISAP for that award year.

The school must also retain applications and records of students who applied for, but did not receive aid, either because the school had no more funds to award or because the school determined that the student did not need funds. The school must keep general ledger control accounts and related accounts that identify each program transaction and must separate those transactions from all other institutional financial activity. Fiscal records must be reconciled at least monthly.

The Campus-Based records a school must maintain include but are not limited to:

- the Student Aid Report (SAR) or Institutional Student Information Record (ISIR) used to determine a student's eligibility for Campus-Based program funds;
- application data submitted to the Department or the school on behalf of the student;
- documentation of the payment of any return of Title IV funds or overpayment to the FSA program fund or the Department;
- documentation of the amount of a Perkins Loan, FSEOG or FWS award, its payment period, and the calculations used to determine the amount of the loan, grant, or FWS award;
- documentation of each FSEOG or Perkins Loan disbursement and the date and amount of each payment of FWS wages;
- documentation of the school's calculation of any refunds or overpayments due to, or on behalf of, the student and the amount, date, and basis of the school's calculation;
- information collected at initial and exit loan counseling required by Perkins Loan regulations; and
- reports and forms used by the school in its participation in a Campus-Based program, and any records needed to verify data that appear in those reports and forms.

Perkins recordkeeping

Perkins Loan records of a school must maintain and include, but are not limited to:

- documentation of each student's eligibility for a Perkins Loan;

- the promissory note;
- documentation of the amount of a Perkins Loan, its payment period, and the calculations used to determine the amount of the loan;
- documentation of the date and amount of each disbursement of Perkins Loan funds;
- information collected at initial and exit loan counseling required by Perkins Loan regulations.

You must maintain a copy of the promissory note signed by the student (see the next section for acceptable formats for paper and electronic promissory notes). You must maintain an affidavit or certification regarding creation and maintenance of an electronic promissory note, including its authentication and signature processes. Documentation and certification requirements for assignment of Perkins Loans made using an electronic promissory note or MPN are discussed in Chapter 6, under “Perkins Assignment.”

When the borrower has fully repaid the Perkins Loan, your school is required to either mark the original note “paid in full,” have it certified by an official of the school, and return it to the borrower or to notify the borrower in writing that the loan is paid in full.

For each Perkins Loan borrower, a school must also maintain a repayment history that shows:

- the date and amount of each repayment during the life of the loan;
- the amount of each repayment credited to principal, interest, collection costs, and either penalty or late charges;
- the date, nature, and result of each contact with the borrower (or endorser for loans made prior to July 23, 1992) in the collection of an overdue loan; and
- copies of all correspondence to or from the borrower (and endorser for loans made prior to July 23, 1992), except for bills, routine overdue notices, and routine form letters (demand letters, notices of intent to accelerate, and the like are not considered to be routine form letters).

FWS Recordkeeping

For schools administering FWS, you must also follow the procedures established in 34 CFR 675.19 for documenting a student’s FWS work, earnings, and payroll transactions. You must establish and maintain an internal control system of checks and balances that ensures that no office can both authorize FWS payments and disburse FWS funds to students. If you use a fiscal agent for FWS funds, that agent may perform only ministerial acts.

Sample certification statement

If the original promissory note is released for the purpose of enforcing repayment, the school must keep a certified true copy. To qualify as a certified true copy, a photocopy (front and back) of the original promissory note must bear a certification statement signed by the appropriate school official. The following text can be used as the certification statement on a certified true copy of a Perkins promissory note.

CERTIFIED TRUE COPY: I declare under penalty of perjury that the foregoing is a true and correct copy of the original promissory note.

Signature: _____

Title: _____

Date: _____

In school records, schools must distinguish expenditures for FWS compensation from other institutional expenditures. You should enter FWS compensation on a separate voucher or, if listed on the general payroll voucher, you should group FWS compensation separately from other compensation. If payrolls are handled on automatic data processing equipment, you should identify FWS with a special code.

You must establish and maintain program and fiscal records that are reconciled at least monthly. The records must include:

- a payroll voucher containing sufficient information to support all payroll disbursements;
- a noncash contribution record to document any payment of the school's share of the student's earnings in the form of services and equipment; and
- a certification by the student's supervisor, an official of the school (or off-campus agency) that each student has worked and earned the amount being paid. Your school may use an electronic certification process (see sidebar). The school may still continue to have the FWS student's supervisor sign a paper certification. If the students are paid on an hourly basis, the certification must include or be supported by a time record showing the hours each student worked in clock time sequence, or the total hours worked per day.

In addition, each FWS position should have a job description that includes the following:

- the name and address of the student's employer (department, public agency, nonprofit organization);
- the purpose of the student's job;
- the student's duties and responsibilities;
- the job qualifications;
- the job's wage rate or range;
- the length of the student's employment (beginning and ending dates); and
- the name of the student's supervisor.

The job description has several purposes:

- It clearly defines whether the job qualifies under the FWS Program.
- It provides the information needed to explain the position to a student and to help him or her select the type of employment most closely related to his or her educational or career objectives.
- It helps the financial aid administrator, the student, and the supervisor determine the number of hours of work required at the specified wage rate to meet a student's financial need.
- It establishes a written record, for both student and employer, of the job's duties and responsibilities so that there will be no misunderstanding.

If a student is employed with an agency or organization that provides community services, the school should, as with any other FWS position, have a job description that includes the duties and the responsibilities. Schools should use the job description to verify that the job meets the definition of community services in the FWS regulations (see Chapter 2). In addition, for students performing reading tutoring or family literacy activities, the job description should support those jobs.

FSEOG Recordkeeping

In addition to following the fiscal procedures and records requirements mentioned above and in *Volume 2*, a school must meet the following requirements, which are included in the FSEOG regulations:

- A school must establish and maintain an internal control system of checks and balances that ensures that no office can both authorize FSEOG payments and disburse FSEOG funds to students.
- A school must establish and maintain program and fiscal records that are reconciled at least monthly.
- Each year a school must submit a FISAP and other information the Department requires. The information must be accurate and must be provided on the form and at the time specified by the Department.

Electronic certification

A school that uses an electronic certification must adopt reasonable safeguards against possible fraud and abuse.

The school should provide a secure electronic certification through an electronic payroll system that includes:

- password protection;
- password changes at set intervals;
- access revocation for unsuccessful log-ins;
- user identification and entry-point tracking;
- random audit surveys with supervisors; and
- security tests of the code access.

See Volume 2 of the *FSA Handbook* for more information about recordkeeping, privacy safeguards, and information security.

Payroll vouchers

Payroll vouchers must support all payroll disbursements and should provide space for the following information:

- the school's name and address;
- the starting and ending dates of the payroll period;
- the student's name;
- an identification of the student's job;
- the number of hours worked during the pay period;
- the hourly rate of pay for an undergraduate student;
- the hourly rate of pay or salary for a graduate student;
- the student's gross earnings;
- any compensation withheld for federal, state, county, or city taxes, and other deductions;
- any noncash payments;
- the student's net earnings;
- a check number, duplicate receipt, or other payment identification; and
- any overtime earnings (a student may be paid overtime with FWS funds).

Records readily available for review

34 CFR 668.24(d)

RECORD RETENTION & FORMATS*Availability of records & period of retention*

Your school must make its records readily available for review by the Department or its authorized representative at an institutional location the Department or its representative designates. Generally, a school must keep records relating to the school's administration of a Campus-Based program for 3 years after the end of an award year for which the aid was awarded and disbursed under that program.

There are some exceptions to this requirement:

- The school must retain the FISAP containing reported expenditures and any records necessary to support the data contained in the FISAP, including “income grid information,” for three years after the end of the award year in which the FISAP is submitted.
- The school must keep the original signed promissory note and repayment schedule *until the loan is repaid in full or until the original note and schedule are needed to enforce loan collection*. Only authorized personnel may have access to these records.
- If a promissory note or MPN was signed electronically, you must store it electronically for *at least* e years after all loans made on the promissory note or MPN are satisfied. (The Department recommends that the school maintain a certified copy of the signed promissory note as well as a record of the full amount owed in its records beyond the 3-year record retention requirement.) You must ensure that the promissory note or MPN can be retrieved in a coherent format.
- The school must keep *repayment* records for Perkins Loans, including records relating to cancellation and deferment requests for at least 3 years from the date a loan is repaid, cancelled, or assigned to the Department. If a loan is assigned to the Department due to total and permanent disability, the school must retain any loan-related documentation that it does not submit until the Department approves a final discharge or the loan has been paid in full (Dear Colleague Letter CB-02-08).
- Records questioned in an audit or program review must be kept until the questions are resolved or until the end of the retention period applicable to the records, whichever is later.

Record formats, storage, etc.

A school must keep its Campus-Based program records in one of the following formats:

- The school must retain the original signed promissory notes and signed repayment schedules for Perkins/NDSL loans in a locked fireproof container. If a loan is assigned to the Department, the school must send the original promissory note or a certified copy of the note, as well as a copy of the original deferment or cancellation form(s). The school may not send computer-generated form(s) or microform(s).

- A school may keep other required records in hard copy or in microform, computer file, optical disk, CD-ROM, or other media formats, but all record information must be retrievable in a coherent hard copy format or in other media formats acceptable to the Department except that any document that contains a signature, seal, certification, or any other image or mark required to validate the authenticity of its information must be kept in its original hard copy or in an imaged media format.
- Any imaged media format used to keep required records must be capable of reproducing an accurate, legible, and complete copy of the original document, and, when printed, this copy must be approximately the same size as the original.

Perkins assignment

34 CFR 674.50

Dear Colleague Letter CB-03-12

Dear Colleague Letter CB-06-23

Assignment address

A school should mail assignments to:

U.S. Department of Education
Perkins Loan Assignment
Processing Center
P.O. Box 4136
Greenville, TX 75403-4316

Perkins loan liquidation procedures

Dear Partner Letter CB-00-05

Assigning uncollected loans

See Chapter 6 in this Volume for a discussion of the procedures for assigning individual loans to FSA Collections when the school has been unable to collect.

PERKINS REIMBURSEMENT & ASSIGNMENT

Reimbursement of Perkins fund for overpayment or default

The Department may require your school to reimburse its Perkins Loan Fund for any outstanding balance on an overpayment or a defaulted loan for which your school failed to record or retain the promissory note, record disbursements, or exercise due diligence. Your school must also reimburse the Perkins Loan Fund for the amount of the administrative cost allowance claimed on any reimbursed portion of a loan.

You do not have to reimburse the Perkins Loan Fund if your school can recover the defaulted loan or show the Department that the borrower would not have paid the loan even if your school properly exercised due diligence. Also, you should not reimburse the Perkins Loan Fund for loans on which your school obtains a judgment.

Assigning loans to FSA collections if Perkins participation ends

Your school must assign to FSA Collections all its Perkins and NDSL loans if:

- your school is closing;
- your school is withdrawing from the Federal Perkins Loan Program; or
- the Department is terminating your school's participation in the program.

Perkins Liquidation

There are seven basic steps to liquidating a school's Perkins Loan portfolio:

1. Notifying the Department of Education of your school's intent to liquidate its Perkins Loan portfolio;
2. Assigning all of your outstanding Perkins Loans to the Department;
3. Continuing National Student Loan Data System reporting until all your outstanding Perkins Loans have been either fully retired, accepted for assignment, or purchased by your school;
4. Returning the federal share of your school's Perkins Loan revolving fund to the Department;
5. Filing the final Fiscal Operation Report;
6. Having an independent compliance audit conducted of all Perkins Loan funds your school has received; and
7. Reconciling the FISAP information reported by your school with Department data.

After the Department completes the reconciliation process and determines that your school has satisfied the liquidation requirements, we will send a letter of approval to your school.

ADMINISTRATIVE COST ALLOWANCE

A school participating in the Campus-Based programs is entitled to an Administrative Cost Allowance (ACA) for an award year if it advances funds under the Perkins Loan Program, provides employment under the FWS Program, or awards grants under the FSEOG Program to students in an award year. The ACA may be used to help offset administrative costs, such as salaries, furniture, travel, supplies, and equipment. The ACA can also be used for service fees that banks charge for maintaining accounts. Computer costs associated with Perkins Loan billing may also be paid from this allowance. Schools may use the allowance to help pay the costs of administering not only the Campus-Based programs but the Federal Pell Grant Program as well. Administrative costs also cover expenses for carrying out the student consumer information services requirements.

The amount of the ACA is calculated as a percentage of the school's expenditures to students for an award year under the Campus-Based programs.

5% of the first \$2,750,000 of a school's
Campus-Based expenditures to students

+

4% of Campus-Based expenditures
greater than \$2,750,000 but less than \$5,500,000

+

3% of Campus-Based expenditures
greater than \$5,000,000

When a school calculates its ACA for the award year, the school is to include in its calculation the full amount of its FSEOG awards—both the 75% federal share and the required 25% nonfederal share. However, a school that chooses to provide more than a 25% institutional share to FSEOG recipients may not include an FSEOG institutional share in excess of 25% in its FISAP or in the calculation of its ACA.

If a school makes no match after receiving a waiver of its required institutional share for the FSEOG Program or the FWS Program, that school's ACA may be calculated only on the full federal portion of its awards for those programs.

The school takes the ACA out of the annual authorizations the school receives for the FSEOG and FWS programs and from the available cash on hand in its Perkins Loan fund. It is not a separate allowance sent to the school. A school may draw its allowance from any combination of Campus-Based programs, or it may take the

Administrative cost allowance

34 CFR 673.7

FSA Assessment: Administrative Cost Allowance

<http://ifap.ed.gov/qahome/qaassessments/fiscalmanagement.html>

Using ACA to train FWS tutor

A school may use a portion of its administrative cost allowance (ACA) to cover the costs of training an FWS tutor. A school may also use a portion of its ACA to cover expenses that are related to employing a student as a tutor with a local school district and that the school may not incur with another organization. If, for example, a school district requires all employees to undergo a background check and be fingerprinted at a cost of \$40 per employee, the postsecondary school may use a portion of its ACA to cover this cost. The FWS Program does not provide for any additional funds beyond the ACA for technical assistance and training of tutors.

total allowance from only one program provided there are sufficient funds in that program. However, a school may not draw any part of its allowance from a Campus-Based program unless the school has disbursed funds to students from that program during the award year. If a school charges any ACA against its Perkins Loan fund, it must charge these costs during the same award year in which the expenditures for these costs were made.

Your school may use up to 10% of the ACA, as calculated above, as attributable to its expenditures under the FWS Program to pay the administrative costs of conducting its program of community service. These costs may include:

- developing mechanisms to assure the academic quality of a student's experience;
- assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives; and
- collaborating with public and private nonprofit agencies and programs assisted under the National and Community Service Act of 1990 in the planning, development, and administration of these programs.

Some schools do not claim an ACA so that all the funds can be used for student awards. This option is the school's decision.

Operating a Federal Work-Study Program

This chapter covers issues specific to operating Federal Work-Study (FWS) program, including Community Service, Job Location and Development, and Work-College programs. For student eligibility criteria relating to Campus-Based programs, including FWS, refer to Volume 1. For information on selecting Campus-Based recipients, and calculating and packaging Campus-Based awards, see Volume 3. For information on disbursing FWS funds, see Volume 4.

FWS JOBS & EMPLOYERS

A student may be employed under the FWS program by the school in which the student is enrolled (on-campus). You may also arrange for your school's FWS recipients to be employed off-campus by—

- federal, state, or local public agencies, or
- certain private nonprofit or for-profit organizations.

Off-campus FWS jobs with federal, state, or local public agencies or private nonprofit organizations must be in the public interest.

Off-campus FWS jobs with private, for-profit organizations must be academically relevant to the maximum extent possible. Also, your school *must* use at least 7% of its FWS allocation to employ students in community service jobs with at least one FWS student employed as a reading tutor for children in a reading tutoring project or performing family literacy activities in a family literacy project.

A school must make FWS jobs reasonably available to all eligible students at the school. To the maximum extent practicable, a school must provide FWS jobs that complement and reinforce each recipient's educational program or career goals.

In assigning an FWS job, a school must consider the student's financial need, the number of hours per week the student can work, the period of employment, the anticipated wage rate, and the amount of other assistance available to the student. While there is no minimum or maximum award, the amount for each student should be determined based on these factors.

CHAPTER 2 HIGHLIGHTS

- FWS jobs & employers
- Employment conditions & limitations
 - Wages
 - Disasters—flexible use of funds
 - General restrictions
- FWS jobs & periods of enrollment/nonenrollment
- Community service jobs
- Work for a proprietary school
- Work on campus
- Work off-campus
 - Nonprofit or government agency
 - Off-campus agreements
 - Employing FWS students as tutors
- JLD programs
 - Fund limitations and allowable costs
 - Multi-institutional JLD programs
- Work colleges program
- Appendices:
 - Model Off-Campus Agreement;
 - NEED Assessment for FWS Community Service

U.S. Department of Labor Web

site: www.dol.gov/esa/whd/flsa/

State & local minimum wage laws

The pay must meet the requirements of the state or local law. This means that when the state or local law requires a higher minimum wage, the school must pay the FWS student that higher wage. However, if the state or local law allows a wage that is less than the Federal minimum wage, the FWS student must be paid at least the Federal minimum wage.

Subminimum wages

The Small Business Job Protection Act of 1996 established a subminimum, or training wage that is lower than the minimum wage. However, it is not permissible to pay the subminimum wage rate to students in FWS jobs.

EMPLOYMENT CONDITIONS AND LIMITATIONS

FWS employment must be governed by employment conditions, including pay, that are appropriate and reasonable according to the type of work performed, the geographic region, the employee's proficiency, and any applicable federal, state, or local law.

Wages

FWS employers must pay students at least the federal minimum wage in effect at the time of employment (The federal minimum wage is \$6.55 per hour effective July 24, 2008; and \$7.25 per hour effective July 24, 2009).

A student's need places a limit on the total FWS earnings permissible but has no bearing on his or her wage rate. It is not acceptable to base the wage rate on need or on any other factor not related to the student's skills or job description. If a student's skill level depends on his or her academic advancement, the school may pay a student on that basis. For example, a junior or third-year lab student may be paid a higher rate than a sophomore or second-year lab student. However, in most cases, students performing jobs comparable to those of other employees should be paid comparable wages, whether the other employees are students at different class levels or are regular employees.

Disasters—flexible use of funds NEW

In the event of a major disaster, an eligible school located in any area affected by such major disaster, as determined by the Secretary, may make FWS payments to disaster-affected students, for the period of time (not to exceed one academic year) in which the disaster-affected students were prevented from fulfilling their work-study obligations.

Payments may be made in an amount equal to or less than the amount of FWS wages such students would have been paid had the students been able to complete the work obligation necessary to receive work-study funds. Payments may not be made to any student who was not eligible for work-study or was not completing the work obligation necessary to receive FWS funds prior to the major disaster. Any payments made must meet the FWS matching requirements, unless such matching requirements are waived by ED.

The term "disaster-affected student" means a student enrolled at an eligible school who

- received an FWS work-study award for the academic year during which a major disaster occurred;
- earned FWS wages from the school for the academic year prior to the disaster;
- was prevented from fulfilling his or her work-study obligation for all or part of such academic year due to such major disaster; and
- was unable to be reassigned to another work-study job.

The term "major disaster" means: any natural catastrophe (including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2))

General restrictions on employment

FWS employment must not displace employees (including those on strike) or impair existing service contracts. Also, if the school has an employment agreement with an organization in the private sector, the organization's employees must not be replaced with FWS students. Replacement is interpreted as displacement.

FWS positions must not involve constructing, operating, or maintaining any part of a building used for religious worship or sectarian instruction. In determining whether any FWS employment will violate this restriction, a school should consider the purpose of the part of the facility in which the work will take place and the nature of the work to be performed. For example, if the part of the facility in which the student will work is used for religious worship or sectarian instruction, the work cannot involve construction, operation, or maintenance responsibilities. If that part of the facility is not being used for religious worship or sectarian instruction, The school should make sure that any work the student will perform meets general employment conditions and that other limitations are not violated.

Neither a school nor an outside employer that has an agreement with the school to hire FWS students may solicit, accept, or permit the soliciting of any fee, commission, contribution, or gift as a condition for a student's FWS employment. However, a student may pay union dues to an employer if they are a condition of employment and if the employer's non-FWS employees must also pay dues.

The Fair Labor Standards Act of 1938, as amended, prohibits employers (including schools) from accepting voluntary services from any paid employee. Any student employed under FWS must be paid for all hours worked.

Federal share may not be used to provide fringe benefits

The federal share may *not* be used to provide fringe benefits such as sick leave, vacation pay, or holiday pay, or employer's contributions to Social Security, workers' compensation, retirement, or any other welfare or insurance program. These restrictions on the federal share apply even when the Department authorizes a federal share of 100% of FWS wages.

Earning academic credit & compensation for FWS jobs

A student may earn academic credit as well as compensation for FWS jobs. Such jobs include but are not limited to internships, practica, assistantships (e.g., research or teaching assistantships), and service learning programs. However, a student employed in an FWS job and receiving academic credit for that job may not be:

- paid less than he or she would be if no academic credit were given;
- paid for time while receiving instruction in a classroom, laboratory, or other academic setting; and
- paid unless the employer would normally pay a non-FWS person for the same job.

FWS payments during period of nonattendance prior to study abroad

A student in an eligible program of study abroad may be employed during a period of non-attendance preceding the study abroad if she will be continuously enrolled in her American school while abroad and if her study is part of the American school's own program. In such a case, a student may be employed in a qualified position in the United States, at the American school's additional location in a foreign country, or at a U.S. government facility abroad.

FWS & mini-sessions

If a school combines a series of mini-sessions or modules into one term (e.g., three summer mini-sessions into one summer term), an FWS student attending any of the mini-sessions may earn FWS wages at any time throughout that term. The school may apply those earnings toward the student's financial need for the mini-session(s) attended or the next period of enrollment. The school must base the student's financial need for attending the summer term on the period of time for which the student is actually enrolled in the mini-sessions.

The amount of FWS wages a student may earn at any point in the term does not depend on whether the student is then enrolled in a mini-session. The school or student may choose how to distribute the hours worked throughout the summer term.

FWS JOBS & PERIODS OF ENROLLMENT/NONENROLLMENT

FWS earnings for the next period of enrollment

Many FWS students must pay the bulk of their education costs in the beginning of each period of enrollment before they have had a chance to earn FWS wages. To provide the opportunity to earn wages before incurring education costs, the Department allows students to earn FWS wages to cover expenses for the next period of enrollment offered by the school.

The student must be planning to enroll for that next period and must demonstrate financial need for it. The next period of enrollment is usually the next term, including a summer period, or in the case of summer earnings, the next full academic year. A student may earn FWS wages toward the next period of enrollment during any period, including during a period of non-attendance (see below) or a period of enrollment made up, in whole or in part, of mini-sessions.

Periods of non-attendance for FWS students

A student may be employed under FWS during a period of nonattendance, such as a summer term, an equivalent vacation period, the full-time work period of a cooperative education program, or an unattended fall or spring semester. The student must be planning to enroll for the next period of enrollment and must have demonstrated financial need for that period. The student's net earnings (earnings minus taxes and job-related costs) during this period of nonattendance must be used to cover expenses associated with her financial need for the next period of enrollment, which is usually the next term, including a summer period, or in the case of summer earnings, the next full academic year.

A student who was not attending school in the summer but who was eligible for summer FWS employment because he anticipated being enrolled in the fall may fail to then attend school. When a student fails to attend for the next period of enrollment, the school that employed him must be able to demonstrate that he was eligible for employment and that the school had reason to believe the student intended to study at that school in the next period of enrollment. At a minimum, the school that employed the student must keep a written record in its files showing that he had accepted the school's offer of admittance for the next period of enrollment.

COMMUNITY SERVICE JOBS

Your school must use at least 7% of its FWS allocation to employ students in community service jobs. Community Service jobs can be either on-campus or off-campus. *Nonprofit agencies* can qualify as community service employers if the work performed meets the definition of community services in the regulations. See the list of programs and activities that are recognized as appropriate work in community services at the end of this section. (Note that *private, for-profit organizations* do not qualify as employers for community service under the FWS Program.)

At least one of the FWS students your school employs to fulfill this requirement must:

- perform family literacy activities in a family literacy project that provides services to families with preschool age children or elementary school children; or
- serve as a reading tutor for children who are preschool age or are in elementary school.

To further encourage schools to employ FWS students in these positions and as mathematics tutors, FWS regulations authorize a 100% federal share of FWS wages. (See Chapter 1 for more information about Community Service funding and employment requirements, and waivers.)

Employing an FWS student in these positions serves the needs of the community and gives the FWS student an enriching and rewarding experience.

Schools must inform students of FWS community service opportunities available in the local community. The Program Participation Agreement also requires your school to work with local nonprofit, governmental, and community-based organizations to identify community service opportunities, including those that assist supportive services to students with disabilities. Schools should promote these opportunities to students by notifying each student individually or via general means such as campus Web sites or publications.

Community services eligible for FWS

Community services are defined as services that are identified by an institution of higher education through formal or informal consultation with local nonprofit, government, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs. These services include:

- such fields as health care, child care, literacy training, education (including tutorial services), welfare, social services, transportation, housing and neighborhood improvement, public safety, crime prevention and control,

Emergency response & preparedness

NEW

HEOA 2008 amended the definition of community service jobs to include field of emergency preparedness and response. HEOA 441(2)
HEA section 441(c)(1)
Effective August 14, 2008

More information

- Community service
Dear Colleague Letter CB-07-08
- Family literacy project
Dear Colleague Letter CB-98-6
- Reading tutor/family literacy project
34 CFR 675.18(g)
- 7% requirement
34 CFR 675.18(g)

Indirect services

The Department does not intend to indicate that certain activities are more important than others or that only jobs that have direct contact with community members are acceptable. For example, an FWS student working for the Meals on Wheels Program is performing community service when conducting research on where the program is needed, when recruiting or coordinating volunteers to distribute the meals, or when preparing meals for the program despite having no contact with the community residents. Such indirect services are very important in meeting community needs.

recreation, rural development, community improvement, and emergency preparedness and response;

- work in service opportunities or youth corps under Americorps, and service in the agencies, institutions, and activities described in the box to the left;
- support services for students with disabilities (including students with disabilities who are enrolled at the school*); and
- activities in which an FWS student serves as a mentor for such purposes as tutoring (see below), supporting educational and recreational activities, and counseling, including career counseling.

To be considered employed in a community service job for FWS purposes, an FWS student does not have to provide a “direct” service. The student must provide services that are designed to improve the quality of life for community residents or to solve particular problems related to those residents’ needs. A school may use its discretion to determine what jobs provide service to the community, within the guidelines provided by the statute, regulations, and this *Handbook*. See Appendix B at the end of this chapter for a model need assessment form that can be used with community service agencies.

Civics, emergency response, and other teaching projects NEW

Schools can now use FWS funds to compensate students employed in projects that teach civics in schools, raise awareness of government functions or resources, or increase civic participation.

Additionally, to the extent practicable, a school must:

- give priority to the employment of students participating in projects that educate or train the public about evacuation, emergency response, and injury prevention strategies relating to natural disasters, acts of terrorism, and other emergency situations; and
- ensure that any student compensated with these funds receives appropriate training to carry out the educational services required.

There is no restriction as to whether these jobs must be on or off-campus. However, a university or college is not considered a community for the purposes of the FWS Program community service requirements. On-campus jobs can meet the definition of community services, provided that the services are designed to improve the quality of life for community residents, or to solve problems related to their needs, and that they meet the regulatory and statutory provisions pertaining to the applicable FWS Program employment limitations and conditions.

Finally, the HEOA specifies that the Federal share of the compensation of FWS students may exceed 75%.

HEOA section 443

HEA section 443

Effective August 14, 2008

Employing FWS students as tutors

Many schools employ FWS students as reading or mathematics tutors. This type of employment allows students to help children develop reading or mathematics skills necessary for their education and future employment.

The Department is developing regulations to implement this new provision.

There is no limit on the amount of funds a school can spend from its FWS allocation to pay FWS reading or mathematics tutors. When employing students as reading tutors, schools must, to the maximum extent possible, give placement priority to schools that are participating in a reading reform project that is (1) designed to train teachers how to teach reading on the basis of scientific research on reading; and (2) is funded under the Elementary and Secondary Education Act of 1965. The school must further ensure that reading tutors receive training from the employing school in the instructional practices used by the school.

*This is the only statutory exception to the requirement that community service be open and accessible to the community.

Community service: service opportunities, youth corps programs, other programs and activities

The definition of community services for FWS includes work in “service opportunities” or “youth corps,” as defined in Section 101 of the National and Community Service Act of 1990:

Service opportunity. A program or project, including a service learning program or project, that enables students or out-of-school youth to perform meaningful and constructive service in agencies, institutions, and situations where the application of human talent and dedication may help to meet human, educational, linguistic, and environmental community needs, especially those relating to poverty.

Youth corps program. A program, such as a conservation corps or youth service program, that offers full-time, productive work (to be financed through stipends) with visible community benefits in a natural resource or human service setting and that gives participants a mix of work experience, basic and life skills, education, training, and support services.

The definition of “community services” also includes service in agencies, institutions, and activities that are designated in Section 124(a) of the National and Community Service Act of 1990. These include the following conservation corps and human services corps programs, as well as programs that encompass the focus and services of both.

Conservation corps programs

Conservation corps programs that focus on:

- conservation, rehabilitation, and the improvement of wildlife habitat, rangelands, parks, and recreation areas;
- urban and rural revitalization, historical and site preservation, and reforestation of both urban and rural areas;
- fish culture, wildlife habitat maintenance and improvement, and other fishery assistance;
- road and trail maintenance and improvement;
- erosion, flood, drought, and storm damage assistance and controls;
- stream, lake, waterfront harbor, and port improvement;
- wetlands protection and pollution control;
- insect, disease, rodent, and fire prevention and control;
- the improvement of abandoned railroad beds and rights-of-way;
- energy conservation projects, renewable resource enhancement, and recovery of biomass;
- reclamation and improvement of strip-mined land;
- forestry, nursery, and cultural operations; and
- making public facilities accessible to individuals with disabilities.

Human services corps programs

Human services corps programs that include service in:

- state, local, and regional government agencies;
- nursing homes, hospices, senior centers, hospitals, local libraries, parks, recreational facilities, child and adult daycare centers, programs serving individuals with disabilities, and schools;
- law enforcement agencies and penal and probation systems;
- private nonprofit organizations that primarily focus on social service such as community action agencies;
- activities that focus on the rehabilitation or improvement of public facilities, neighborhood improvements, literacy training that benefits educationally disadvantaged individuals, weatherization of and basic repairs to low-income housing including housing occupied by older adults, energy conservation (including solar energy techniques), removal of architectural barriers to access by individuals with disabilities to public facilities, activities that focus on drug and alcohol abuse education, prevention and treatment, and conservation, maintenance, or restoration of natural resources on publicly held lands; and
- any other nonpartisan civic activities and services that the commission determines to be of a substantial social benefit in meeting unmet human, educational, or environmental needs (particularly needs related to poverty) or in the community where volunteer service is to be performed.

See 34 CFR 675.2 Definitions; “Community Service”

ESTABLISHING FWS COMMUNITY SERVICE JOBS

In contacting potential community service agencies, schools should place a priority on jobs that will meet the human, educational, environmental, and public safety needs of low-income individuals.*

Step #1: Identify Potential Jobs and Employers

Identify jobs

- Brainstorm types of jobs that would meet the community service requirement. What jobs do your students currently hold, on campus or off-campus, that meet the community service definition?
- Communicate the community service requirements to your school's student employment office.

Identify employers

- Which local community service organizations might be interested in employing your FWS students?
- Contact local nonprofit, government, and community-based organizations to assess their needs and determine what interest exists for employing FWS students.

Talk to colleagues

- Talk to colleagues at other schools to get ideas on implementing, locating, and developing the community service jobs.

Step #2: Research Your Students' Interest in Community Service

- Research your FWS students' degrees or certificate programs, interests, and skills to determine which recipients might find community service jobs appealing.

Step #3: Promote Community Service Jobs

- Devise a plan to market community services under the FWS Program to eligible student employers and the community;
- obtain a listing of potential community service agencies;
- ask to be a presenter at various organizations' meetings;
- engage in networking activities;
- hold and attend job fairs;
- host a financial aid office "open house;" and
- visit local agencies.

* There is no formal definition of "low-income individuals" for this purpose, and there is no statutory requirement that a particular number or proportion of the individuals must be low-income persons. Some examples of jobs that provide services to persons in the community who may not necessarily be low-income individuals are jobs that provide supportive services to individuals with disabilities or that prevent or control crime in the community.

What is a Family Literacy Project? How are Family Literacy activities defined?

Research shows that children whose parents work with them on literacy skills during early childhood have a better chance of reading well and independently. The family literacy concept recognizes the family as an institution for education and learning and the role of parents as their children's first teachers.

A family literacy program integrates four components. It provides:

- literacy or pre-literacy education to children,
- literacy training for parents or other caregivers of children in the program,
- a means of equipping parents or other caregivers with the skills needed to partner with their children in learning, and
- literacy activities between parents or other caregivers and their children.

This definition is consistent with the Even Start and Head Start definitions of family literacy programs.

The Department does not define "family literacy activities" for purposes of the community service expenditure requirement or the waiver of the institutional share requirement. The Department gives schools reasonable flexibility to determine the job description and duties for an FWS student performing family literacy activities.

Family literacy activities are not limited to just tutoring positions. For example, family literacy activities may include training tutors, performing administrative tasks such as coordinating the tutors, or working as an instructional aide who prepares the materials for the project. However, it would not be reasonable to include janitorial or building repair jobs as family literacy activities.

WORK ON CAMPUS (SCHOOL IS EMPLOYER)

A student may be employed on campus at any type of postsecondary institution, including at a proprietary school.

A school, other than a proprietary school, may employ a student to work for the school itself, including certain services for which the school may contract, such as food service, cleaning, maintenance, and security. Work for the school's contractors is acceptable as long as the contract specifies the number of students to be employed and specifies that the school selects the students and determines their pay rates.

A proprietary school also may employ a student to work for the school itself with certain restrictions (discussed below under "Work for Proprietary School").

At any type of postsecondary institution, including proprietary schools, an FWS student may be assigned to assist a professor if the student is doing work the school would normally support under its own employment program. Having a student serve as a research assistant to a professor is appropriate, as long as the work is in line with the professor's official duties and is considered work for the school itself.

On-campus employment

34 CFR 675.21

Employment in a foreign country

Normally, employment in a foreign country is not permissible under the law. However, a school with an additional location in a foreign country may employ students under FWS if the branch has its own facilities, administrative staff, and faculty. Students may also be employed by a U.S. government facility such as an embassy or a military base. A student may not be employed for a nonprofit organization in a foreign country.

Proprietary school employment

34 CFR 675.21(b)

A proprietary school also may employ a student to work for the school itself with certain restrictions (see “Work for Proprietary School” in this section).

Student services definition cite

Student services may include:

- jobs in financial aid
- jobs in a library
- peer guidance counseling
- job placement
- assisting an instructor with curriculum-related activities (e.g., teaching assistant)
- security
- social and health services
- tutoring

Student services never include:

- facility maintenance
- cleaning
- purchasing
- public relations

34 CFR 675.2(b)

Work for proprietary school

A proprietary school may employ a student to work for the school itself but only in jobs that meet certain criteria.

If the jobs are in community service, they may be either on or off-campus. Students employed by a proprietary school and performing community service do not have to furnish student services that are directly related to their education.

If the jobs are *not* in community service, they must be on campus and must provide student services that are directly related to the FWS student’s training or education. To the maximum extent possible, the job must complement and reinforce the FWS student’s educational program or vocational goals. The job *may not* involve soliciting potential students to enroll at the proprietary school.

In general, jobs that primarily benefit the proprietary school are not student services. For example, jobs in facility maintenance or cleaning are never student services. See the sidebar for a list of examples of jobs that do not provide student services. Again, this list is not exhaustive. Jobs in the admissions or recruitment area of a school are not acceptable student services because such jobs are considered to involve soliciting potential students to enroll at the school.

The non-community service job must provide student services that are directly related to the FWS student’s training or education. This does not mean that the FWS student must be enrolled in an academic program for that field. Instead, it means that the FWS student must be receiving work experiences that are directly applicable to the skills needed for his or her career path. For example, an FWS student enrolled in an air-conditioning repair program wants to work in the school’s library. Although the student is not pursuing a career as a librarian, the student would still be able to work in the library. The job is directly related to his or her training because he or she is learning customer service and basic office functions that are applicable to work in an air-conditioning repair shop or dealership. Similarly, a job in another student service office such as financial aid, registrar, and job placement would also be considered directly related to the FWS student’s training.

Student services are services that are offered to students. Students are persons enrolled or accepted for enrollment at the school. An FWS student who provides services only to the school’s former students is not providing student services because the services are not offered to currently enrolled students. However, an FWS student who provides services to both current students and former students *is* providing student services, because the services *are* offered to currently enrolled students. For example, an FWS student provides job placement assistance to current students and alumni of the school. The FWS student is considered to be providing student services because his or her services are offered to current students, as well as alumni.

Student services do not have to be direct services or involve personal interaction with other students. Services are considered student services if the services provide a benefit either directly or indirectly to students. For example, an FWS student may work in assisting an instructor in the lab or in other work related to the instructor's official academic duties at the school. See the sidebar for an expanded list of examples of jobs that provide student services. The list is not exhaustive. The fact that a job has some operational functions does not preclude it from being an acceptable FWS job as long as it furnishes student services.

Work for private for-profits

34 CFR 675.23

WORK OFF-CAMPUS

A postsecondary school (including a proprietary school) may use FWS funds to pay a portion of the wages of a student who is employed off campus by certain nonprofit agencies or private employers.

Work off-campus for nonprofit or government agency

If a student is employed off-campus by a federal, state, or local public agency or by a private nonprofit organization, providing jobs related to the student's academic or vocational goals is encouraged, but not required.

A private nonprofit organization is one in which no part of the net earnings of the agency benefits any private shareholder or individual. An organization must be incorporated as nonprofit under federal or state law. A school classified as a tax-exempt organization by either the federal or state Internal Revenue Service meets this requirement. Examples of private nonprofit organizations generally include hospitals, daycare centers, halfway houses, crisis centers, and summer camps.

Work must be “in the public interest”

Work performed off-campus *must be in the public interest*. Work in the public interest is defined as work performed for the welfare of the nation or community, rather than work performed for a particular interest or group.

Work is not “in the public interest” if:

- it primarily benefits the members of an organization that has membership limits, such as a credit union, a fraternal or religious order, or a cooperative;
- it involves any partisan or nonpartisan political activity or is associated with a faction in an election for public or party office;
- it is for an elected official unless the official is responsible for the **regular** administration of federal, state, or local government;
- it is work as a political aide for any elected official;
- it takes into account a student's political support or party affiliation in hiring him or her; or
- it involves lobbying on the federal, state, or local level.

Political activity, whether partisan or nonpartisan, does not qualify as work in the public interest. For example, a student is not considered to be working in the public interest if working at voting polls—even if he or she only checks off the names of those who came to vote and does not pass out flyers supporting a particular candidate. Also, a student is not considered to be working in the public interest if working to support an independent candidate. Another example of nonpartisan political activity is work for a city political debate.

Working for an elected official as a political aide also does not qualify as work in the public interest. For example, a student could not represent a member of Congress on a committee. However, a student could be assigned to the staff of a standing committee of a legislative body or could work on a special committee, as long as the student would be selected on a nonpartisan basis and the work performed would be nonpartisan.

Under certain circumstances, work for an elected official responsible for the *regular administration* of federal, state, or local government may be considered to be in the public interest. “Regular administration” means the official is directly responsible for administering a particular function. Such a person would not create, abolish, or fund any programs, but would run them. Working for a sheriff would be acceptable, as would working for an elected judge (because he or she has direct responsibility for the judicial system).

As stated above, any *political* activity would not be acceptable—raising funds for the official’s reelection, for example. An FWS position that involves lobbying at the federal, state, or local level is not work in the public interest. FWS students are prohibited from working for the Department of Education due to the potential appearance of conflict of interest.

Work off-campus for private for-profit companies

Schools also may enter into agreements with private for-profit companies to provide off-campus jobs for students; however, these jobs must be academically relevant, to the maximum extent practicable, to the student’s program of study. (A student studying for a business administration degree could work in a bank handling customer transactions, for example.) Private for-profit organizations do not qualify as employers for community service under the FWS Program.

Off-campus agreements

If your school would like an off-campus organization to employ FWS students, your school must enter into a written agreement—a contract—with the off-campus organization. A written agreement is required with the off-campus organization even if your school is considered the employer of the FWS student. The school must make sure the off-campus organization is a reliable agency with professional direction and staff and that the work to be performed is consistent with the purpose of the FWS Program. (See Appendix A at the end of this chapter for a model off-campus agreement. The model need not be followed exactly but serves as a guide.)

The agreement should specify what share of student compensation and other costs will be paid by the off-campus organization. For-profit organizations **must** pay the nonfederal share of student earnings. Any off-campus organization **may** pay:

- the nonfederal share of student earnings;
- required employer costs, such as the employer’s share of Social Security or workers’ compensation; and

Rules for private for-profit organizations

Private for-profit organizations may not hire FWS employees to replace regular employees. Also note that the federal share of FWS wages paid to a student working for a private for-profit organization may not exceed 50% (see Chapter 1).

Work in the public interest: examples

However, in deciding whether work is in the public interest, schools must consider the nature of the work as well as that of the organization. For example, a private nonprofit civic club may employ a student if the student’s work is for the club’s community drive to aid handicapped children. If the student’s work is confined to the internal interests of the club, such as a campaign for membership, the work would benefit a particular group and would not be in the public interest. As another example, a student may work for a private nonprofit membership organization, such as a golf club or swimming pool, if the general public may use the organization’s facilities on the same basis as its members. If only members may use the facilities, FWS employment is not in the public interest.

Off-campus agreements

34 CFR 675.20(b)

Treatment of excess funds from an off-campus agreement

If a school receives more money under an employment agreement with an off-campus agency than the sum of

- (1) required employer costs,
- (2) the school's nonfederal share, and
- (3) any share of administrative costs the employer agreed to pay, the school must handle the excess in one of three ways:

- use it to reduce the federal share on a dollar-for-dollar basis;
- hold it in trust for off-campus employment during the next award year; or
- refund it to the off-campus employer.

Reading reform cite

34 CFR 675.18(g)(3)

Reading and math tutors

Dear Colleague Letter CB-97-12, dated July 1999

Dear Partner Letter CB-99-12, dated July 1997

- the school's administrative costs not already paid from its Administrative Cost Allowance (ACA).

The agreement sets forth the FWS work conditions and establishes whether the school or the off-campus organization will be the employer for such purposes as hiring, firing, and paying the student. The employer is generally considered to be the entity that will control and direct the work of the FWS students—supervising them at the work site, regulating their hours of work, and generally ensuring that they perform their duties properly. However, the school is ultimately responsible for making sure that payment for work performed is properly documented and that each student's work is properly supervised.

The agreement should define whether the off-campus organization will assume payroll responsibility and bill the school for the federal share of the students' wages, or whether the school will pay the students and bill the off-campus organization for its contribution. The school must make up any payments the off-campus organization does not make. It is the school's responsibility to ensure that FWS payments are properly documented, even if the off-campus organization does the payroll. To fulfill that responsibility, the school must keep copies of time sheets and payroll vouchers and keep evidence that the students were actually paid (usually copies of the canceled checks or receipts signed by the students). Payroll records are discussed in detail later in this chapter.

The school is also responsible for ensuring that each student's work is properly supervised. School officials should periodically visit each off-campus organization with which they have an off-campus agreement to determine whether students are doing appropriate work and whether the terms of the agreement are being fulfilled.

The agreement must state whether the school or off-campus organization is liable for any on-the-job injuries to the student. The employer is not automatically liable. Federal FWS funds cannot be used to pay an injured student's hospital expenses.

In determining whether to continue an off-campus agreement, many schools have found it helpful to require that students submit a formal evaluation of their work experience at the end of the assignment. The school may also use the evaluation to help off-campus agencies improve their work programs.

Staff members of the off-campus organization must become acquainted with a school's financial aid and student employment programs to better understand the school's educational objectives. The school must supply the off-campus organization with this information.

EMPLOYING FWS STUDENT AS TUTORS: FAQs

What are the requirements for a “reading tutor” or “math tutor?”

The Department does not define “tutor” for the FWS Program. This gives schools flexibility in determining the job description and duties of a tutor. For example, a reading tutor could be an FWS student who reads to a group of preschoolers in a public library.

An FWS student employed as a tutor does not have to meet certain statutory (for reading tutors) or regulatory (for reading and mathematics tutors) educational standards or qualifications for the school to receive an institutional-share waiver. However, an FWS reading or math tutor must have adequate reading or math skills, as appropriate, and the Department strongly recommends that the tutors be well trained before they tutor.

The Department does not require background checks of FWS tutors. However, some state and local jurisdictions may require such checks. The requirements will vary according to the agency or organization involved.

What is a preschool age child?

A preschool age child is a child from infancy to the age at which his or her state provides elementary education.

What is the definition of an elementary school?

The definition of an elementary school varies from state to state. Because the Department does not wish to interfere with a state’s determination of what constitutes children who are in elementary school, we will not provide guidance on the maximum grade level for elementary school for purposes of the institutional-share waiver for tutoring.

What setting must the tutoring take place in?

Tutoring may be one-on-one or in a group. Tutoring sessions can take place in a school setting or another location, such as a public library or community center. Tutoring sessions can be held during regular school hours, after school, on weekends, or in the summer.

Can FWS students tutor children in parochial schools?

An FWS student can tutor a child in a parochial school under certain conditions:

- The parochial school must be classified as a private, nonprofit school by the Internal Revenue Service or a state taxing body;
- The work may not involve constructing, operating, or maintaining any part of a building used for religious worship or sectarian instruction; and
- The FWS tutor may not use religious material to tutor the child.

Should tutors be trained?

The Department strongly recommends that the tutors be well trained before they tutor. When an FWS student receives training from a specialist or expert for sufficient duration and intensity, he or she is more likely to be successful with the child he or she is tutoring. Tutor training should emphasize the importance of the tutor’s communication with the regular classroom teacher to maximize effectiveness. The amount and type of training will often vary, depending on the needs of the child who is being tutored and the subject being studied. (See Chapter 1 for information on using the administrative cost allowance to pay for the cost of training tutors.)

Can students be paid while in training?

Under limited circumstances, an FWS tutor can receive FWS wages while he or she is being trained, and these wages can qualify for a waiver of the institutional share. This training period must be only for a reasonable and limited length of time. The Department would not consider a training period of an academic term to be reasonable. The Department would consider a reasonable training period to be one that occurs before the student begins tutoring and that does not exceed approximately 20 hours. A school may not pay an FWS student to take an academic course the school developed to provide classroom training on tutoring children. An FWS student may take such a course as long as he or she is not paid for taking the course (34 CFR 675.18(h)). See Chapter 4 for more information.

Can students be paid during preparation and evaluation activities?

The preparation time and evaluation time worked by an FWS tutor qualify for a 100% federal share as long as the time spent for this purpose is reasonable. For example, the Department would consider attending evaluation and preparation meetings once a week for approximately one hour to be reasonable. The Department wants to give some flexibility because of the value of evaluation and preparation time. However, the goal is to spend funds for FWS students to interact with the children in family literacy programs, not for other activities.

Will a tutoring job always satisfy the community service requirement?

An FWS tutor job might qualify for a waiver of the institutional share (100% federal share) but not qualify as part of the 7% community service requirement. If, for example, a postsecondary school employs FWS students to tutor young children in its daycare center and the center is not open and accessible to the community, the job would qualify for the waiver, but would not qualify as part of the 7% community service requirement.

What if the FWS student is training tutors, performing related administrative tasks, or works another FWS job?

The wages of an FWS student who is training tutors or who is performing administrative tasks related to supporting other people who are actually providing the reading or mathematics tutoring do not qualify for a federal share of up to 100%; rather, an institutional share is required.

Remember that it is the FWS reading or mathematics tutor job, not the student working in the job, that qualifies for the institutional-share waiver. Thus, an FWS student who is working another FWS job in addition to the tutor job can be paid with 100% federal funds only for the time he or she is working as a tutor, not for time spent on the other job. If, for example, an FWS student spends only half of his or her time working as a reading tutor (including preparation and evaluation time) and the other half on non-tutoring tasks, the student may be paid 100% federal funds only for half the time and the other half must be paid with a maximum of 75% federal funds and a minimum of 25% nonfederal funds.

How can my school start placing FWS students as tutors?

Your school may construct its own reading tutor program or join existing community programs.

You may use the Job Location and Development (JLD) Program to locate or develop jobs for FWS students as tutors of children. However, you may not use JLD funds exclusively for this purpose because you would be in violation of the JLD statutory requirement to expand off-campus jobs for currently enrolled students who want jobs regardless of their financial need.

JOB LOCATION AND DEVELOPMENT PROGRAM

The Job Location and Development (JLD) Program is one of the FWS Programs. An institution is allowed to use part of the federal funds it receives under the FWS Program to establish or expand a JLD Program.

The JLD Program locates and develops off-campus job opportunities for students who are currently enrolled in eligible institutions of higher education and who want jobs regardless of financial need. This means that jobs may be located and developed under the JLD Program for FWS and non-FWS eligible students.

Under the JLD Program, your school must locate and develop off-campus jobs that are suitable to the scheduling and other needs of the employed student and must, to the maximum extent practicable, complement and reinforce the educational program or vocational goal of the student.

JLD jobs may be part-time or full-time, for either a for-profit or nonprofit employer.

JLD Program Participation

A school that participates in the FWS Program is also eligible to participate in the JLD Program. A school that has an executed Program Participation Agreement (PPA) for the FWS Program may participate in the JLD Program without any prior contact with the Department and without any revision to its PPA. Under the PPA, the school agrees to administer the JLD Program according to the appropriate statutory and regulatory provisions.

If the Department terminates or suspends a school's eligibility to participate in the FWS Program, that action also applies to the school's JLD Program.

Student Eligibility

Any student employed in a job developed under the JLD Program must be currently enrolled at the school placing him or her in a job. A school may place in JLD jobs both students who do not meet FWS student eligibility criteria and those who do meet those criteria. However, using JLD funds to find jobs only for FWS students would not satisfy the program purpose of expanding off-campus jobs for students who want jobs regardless of financial need.

Use of FWS Allocation for JLD Program

When establishing or expanding a program to locate and develop off-campus jobs, including community service jobs, a school may use up to the lesser of the following two amounts:

- 10% of its FWS allocation and reallocation; or
- \$75,000.

JLD purpose cite

34 CFR 675.31

NEW Increase in JLD limits

Effective August 14, 2008, the amount of FWS funds institutions of higher education may use for Job Location and Development programs increases to not more than 10% or \$75,000 of their Federal Work-Study allocations, up from not more than 10% or \$50,000.

HEOA section 445

HEA section 445(a)(1)

Effective date: August 14, 2008

JLD & community service

The JLD Program encourages students to participate in community service activities. Your school must inform all eligible students of the opportunity to perform community services and must develop and make available information about community service opportunities. The JLD Program uses the same definition of community services that the FWS Program employs. However, the JLD Program does not have a specific minimum community service requirement, as does the FWS Program.

Maximum federal funds for JLD Programs cite

34 CFR 675.32

Use of JLD funds cite

34 CFR 675.35(a)(2)

Federal and institutional shares

34 CFR 675.33(b)

34 CFR 675.33(c)

Allowable costs cite

34 CFR 675.33(a)

Use of JLD Program Funds

Your school may use federal JLD funds to pay for the cost of establishing and administering the JLD Program. You may not use JLD funds to:

- pay students whose jobs were located and developed through the JLD Program;
- locate and develop jobs at your school or other eligible schools;
- place students upon graduation; and
- displace employees or impair existing service contracts.

A school is expected to generate total student wages exceeding the total amount of the federal funds spent under JLD.

Federal share limitation

You may use federal FWS funds to pay up to 80% of the allowable costs (listed below). Your school must provide the remaining 20% of allowable costs either in cash or in services. This requirement, unlike the institutional-share requirement for FWS earnings, cannot be waived.

Your school's 20% share may be either (1) 20% of each allowable cost, or (2) varying percentages of allowable costs, as long as its total expenditures of institutional funds and/or provision of services equals at least 20% of the total allowable costs for the JLD Program.

You must maintain records that indicate the amount and sources of your school's matching share. Procedures and records requirements for JLD are the same as those for all Campus-Based programs.

Allowable program costs

Allowable costs of carrying out the JLD Program include:

- staff salaries (and fringe benefits, if they are the same as those paid to other institutional employees in comparable positions and are not paid to a student employed through the FWS Program);
- travel expenses related to JLD activities;
- printing and mailing costs for brochures about the JLD Program;
- JLD telephone charges, including installation of a separate line for off-campus employers;
- JLD costs for supplies, equipment, and furniture;
- newspaper or other types of advertising that inform potential employers of the services JLD offers; and
- JLD workshops for students and employers.

Costs that are not allowable are costs related to purchasing, constructing, or altering the facilities that house a JLD project. Indirect

administrative costs also are not allowable. One example of an indirect administrative cost is a portion of the salary of someone who is not directly involved in the program, such as the JLD director's supervisor. Other examples of indirect administrative costs are lighting, heating, or custodial costs incurred as part of the normal operations of the facility in which the JLD program is administered, such as the financial aid or placement offices.

Students as staff in the JLD program office

The prohibition against using JLD funds to locate and develop jobs at any school **does not** mean that your school is also prohibited from employing FWS and non-FWS students as staff in the JLD Program office. Your school may employ FWS and non-FWS students as staff in the JLD Program office as long as you do not use JLD funds to locate and develop these jobs. For example, your school could use the FWS Program to employ an FWS student as a staff member in the JLD Program office.

If your school places an FWS student as staff in the JLD program office, there are some important points to note. The statute and the FWS regulations prohibit the use of any funds allocated under the FWS Program from being used to pay the institutional share of FWS compensation to its students. Hence, your school may not use federal JLD funds to pay the institutional share of FWS wages earned by an FWS student working as staff in the JLD Program office. Instead, you must use your school's funds to pay the institutional share of these wages.

Multi-institutional JLD programs

Your school may enter a written agreement with other eligible schools for those schools to establish and to operate a JLD Program for its students. The agreement must designate the administrator of the program and must specify the terms, conditions, and performance standards of the program. Each school that is part of the agreement retains responsibility for properly disbursing and accounting for the federal funds it contributes under the agreement.

For example, each school must show that its own students have earned wages that exceed the amount of federal funds the school contributed to locate and develop those jobs. This fiscal information must be reported on each school's FISAP.

If your school uses federal funds to contract with another school, suitable performance standards must be part of that contract. Performance standards should reflect each school's philosophy, policies, and goals for the JLD Program. You may not develop performance standards, conditions, or terms that are inconsistent with the statute or regulations. In all cases, the performance standards should be clearly understandable, because they will be included in the formal written agreement that each party must observe as part of its responsibility within the particular arrangement.

JLD reporting on the FISAP

If your school participates in the JLD Program during an award year, you must provide information about its JLD activities on the *Fiscal Operations Report and Application to Participate* (FISAP). You must report the total JLD expenditures, federal expenditures for JLD, institutional expenditures for JLD, number of students for whom jobs were located or developed, and total earnings for those students.

Your school **may not** include student staff jobs in the JLD Office on the FISAP in the JLD section for reporting the count of students and the earnings of students for whom jobs were located or developed through the JLD Program. However, if your school used its own funds to pay the institutional share of wages for student staff jobs, you may count those funds in meeting the minimum 20% institutional-share requirement for the JLD Program.

Multi-institutional programs cite

34 CFR 675.34

Work Colleges Program

The Higher Education Amendments of 1992 authorized the Work-Colleges Program. The Work-Colleges Program recognizes, encourages, and promotes the use of comprehensive work-learning-service programs as a valuable educational approach when used as an integral part of the school's educational program and as a part of a financial plan that decreases reliance on grants and loans. The program also encourages students to participate in community service activities.

Purpose of Work-Colleges Program cite
34 CFR 675.43

Definition of Work-College cite
34 CFR 675.41

Application to participate in the
Work-Colleges Program
DCL CB-08-02

Additional citations

Additional requirements for the Work-Colleges Program are found in 34 CFR 675, Subpart C. The Higher Education Opportunity Act of 2008 introduced the term "work-learning-service" and revised the definition of "Work College." HEOA section 447
HEA section 448

Definition: Comprehensive student work-learning-service program

A student work/service program that:
is an integral and stated part of the institution's educational philosophy and program;

- requires participation of all resident students for enrollment and graduation;
- includes learning objectives, evaluation, and a record of work performance as part of the student's college record;
- provides programmatic leadership by college personnel at levels comparable to traditional academic programs;
- recognizes the educational role of work-learning-service supervisors; and
- includes consequences for nonperformance or failure in the work-learning-service program similar to the consequences for failure in the regular academic program.

HEA Section 448
34 CFR 675.41(b)

WORK-COLLEGES PROGRAM

Schools that satisfy the definition of "work-college" may apply to the Department to participate in the program. A work-college may transfer funds from its FWS and/or Perkins Loan allocations to fund its Work-Colleges Program.

The term "work-college" is defined as an eligible school that:

- has been a public or private nonprofit, 4-year, degree-granting institution with a commitment to community service;
- has operated a *comprehensive work-learning-service program* (see sidebar for definition) for at least two years;
- requires students, including at least one-half of all students who are enrolled on a full-time basis, to participate in a comprehensive work-learning-service program for at least 5 hours each week, or at least 80 hours during each period of enrollment, except summer school, unless the student is engaged in an institutionally-organized or approved study abroad or externship program; and
- provides students participating in the comprehensive work-learning-service program with the opportunity to contribute to their education and to the welfare of the community as a whole.
- requires all students who reside on campus to participate in a comprehensive work-learning-service program; and
- requires providing services as an integral part of the school's educational program and as part of the school's educational philosophy.

Allowable costs

Allocated program funds may be used to:

- support the educational costs of students through self-help provided under the work-learning-service program within the limits of their demonstrated financial need;
- promote the work-learning-service experience as a tool of education and community service;
- carry out FWS and JLD program activities;
- administer, develop, and assess comprehensive work-learning-service programs;
- coordinate and carry out joint projects and activities to promote work-service learning; and
- conduct a comprehensive longitudinal study of academic progress and academic and career outcomes.

Model Off-Campus Agreement



The paragraphs below are suggested as models for the development of a written agreement between a school and a Federal, State, or local public agency or a private nonprofit organization that employs students who are attending that school and who are participating in the Federal Work-Study (FWS) Program. Institutions and agencies or organizations may devise additional or substitute paragraphs as long as they are not inconsistent with the statute or regulations.

This agreement is entered into between _____, hereinafter known as the “Institution,” and _____, hereinafter known as the “Organization,” a (Federal, State, or local public agency), (private nonprofit organization), (strike one), for the purpose of providing work to students eligible for the Federal Work-Study Program [FWS].

Schedules to be attached to this agreement from time to time must be signed by an authorized official of the institution and the organization and must set forth—

1. brief descriptions of the work to be performed by students under this agreement;
2. the total number of students to be employed;
3. the hourly rates of pay; and
4. the average number of hours per week each student will be used.

These schedules will also state the total length of time the project is expected to run, the total percent, if any, of student compensation that the organization will pay to the institution, and the total percent, if any, of the cost of employer’s payroll contribution to be borne by the organization. The institution will inform the organization of the maximum number of hours per week a student may work.

Students will be made available to the organization by the institution to perform specific work assignments. Students may be removed from work on a particular assignment or from the organization by the institution, either on its own initiative or at the request of the organization. The organization agrees that no student will be denied work or subjected to different treatment under this agreement on the grounds of race, color, national origin, or sex. It further agrees that it will comply with the provisions of the Civil Rights Act of 1964 (Pub. L. 88-352; 78 Stat. 252) and Title IX of the Education Amendments of 1972 (Pub. L. 92-318) and the Regulations of the Department of Education which implement those Acts. Two examples of Off-Campus Agreements are included to provide additional guidance.

Where appropriate, any of the following 3 paragraphs or other provisions may be included

1. Transportation for students to and from their work assignments will be provided by the organization at its own expense and in a manner acceptable to the institution.
2. Transportation for students to and from their work assignments will be provided by the institution at its own expense.
3. Transportation for students to and from their work assignments will not be provided by either the institution or the organization.

Sample language to specify employer

Whether the institution or the organization will be considered the employer of the students covered under the agreement depends upon the specific arrangement as to the type of supervision exercised by the organization. It is advisable to include some provision to indicate the intent of the parties as to who is considered the employer. As appropriate, one of the following two paragraphs may be included.

Although the following paragraphs attempt to fix the identity of the employer, they will not necessarily be determinative if the actual facts indicate otherwise. Additional wording that specifies the employer's responsibility in case of injury on the job may also be advisable, since federal funds are not available to pay for hospital expenses or claims in case of injury on the job. In this connection it may be of interest that one or more insurance firms in at least one state have in the past been willing to write a workers' compensation insurance policy which covers a student's injury on the job, regardless of whether it is the institution or the organization that is ultimately determined to have been the student's employer when he or she was injured.

1. The institution is considered the employer for purposes of this agreement. It has the ultimate right to control and direct the services of the students for the organization. It also has the responsibility to determine whether the students meet the eligibility requirements for employment under the Federal Work-Study Program, to assign students to work for the organization, and to determine that the students do in fact perform their work. The organization's right is limited to direction of the details and means by which the result is to be accomplished.
2. The organization is considered the employer for purposes of this agreement. It has the right to control and direct the services of the students, not only as to the result to be accomplished, but also as to the means by which the result is to be accomplished. The institution is limited to determining whether the students meet the eligibility requirements for employment under the Federal Work-Study Program, to assigning students to work for the organization, and to determining that the students do perform their work in fact.

Sample language to specify responsibility for payroll disbursements and payment of employers' payroll contributions

Compensation of students for work performed on a project under this agreement will be disbursed—and all payments due as an employer's contribution under State or local workers' compensation laws, under Federal or State social security laws, or under other applicable laws, will be made—by the (organization) (institution) (strike one).

If appropriate, any of the following paragraphs may be included

1. At times agreed upon in writing, the organization will pay to the institution an amount calculated to cover the organization's share of the compensation of students employed under this agreement.
2. In addition to the payment specified in paragraph (1) above, at times agreed upon in writing, the organization will pay, by way of reimbursement to the institution, or in advance, an amount equal to any and all payments required to be made by the institution under State or local workers' compensation laws, or under Federal or State social security laws, or under any other applicable laws, on account of students participating in projects under this agreement.
3. At times agreed upon in writing, the institution will pay to the organization an amount calculated to cover the Federal share of the compensation of students employed under this agreement and paid by the organization. Under this arrangement the organization will furnish to the institution for each payroll period the following records for review and retention:
 - a) Time reports indicating the total hours worked each week in clock time sequence and containing the supervisor's certification as to the accuracy of the hours reported;
 - b) A payroll form identifying the period of work, the name of each student, each student's hourly wage rate, the number of hours each student worked, each student's gross pay, all deductions and net earnings, and the total Federal share applicable to each payroll;* and
 - c) Documentary evidence that students received payment for their work, such as photographic copies of canceled checks.

* These forms, when accepted, must be countersigned by the institution as to hours worked as well as to the accuracy of the total Federal share which is to be reimbursed to the organization or agency.

Need Assessment for FWS Community Service Program



Agency Name: _____

Date: _____

Contact Name: _____

Phone: _____

Address: _____

1. _____ Non-Profit _____ For Profit

2. Agency Mission Statement and Description of Clients Served:

3. Agency Funding Sources (check all that apply):

_____ Federal

_____ State

_____ County/City

_____ United Way

_____ Other (explain)

4. Agency's Fiscal Year: _____ to _____

5. Agency's Staffing (number of positions):

_____ Full-time paid staff

_____ Part-time paid staff

_____ Student employees

_____ Volunteers

6. How many student jobs may be available at your agency during:

Summer 20xx _____

20xx-20xx Academic Year _____

Summer 20xx _____

7. For each student job expected to be available as indicated in #6, provide the following information, attaching a separate sheet for each position.

Job Title

Rate or Range of Pay per Hour

Begin and End Dates

Work Schedule-Days and Hours

Total Hours/Week

Description of Duties

Qualifications and Experience (indicate preferred or required)

8. Has your agency hired students through the Federal Work-Study Program in the past?

_____ YES _____ NO

If YES:

Number of students: _____

Dates employed: _____

Average length employed: _____

9. Additional Comments:

Making Perkins Loans

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 (EFC) for the student, the school must award financial aid based on the student's loan eligibility and the maximum amounts for each FSA program. For a complete explanation of awarding Perkins funds, see *Volume 3, Chapter 7: Awarding Campus-Based Aid*. As with the other Campus-Based programs, funds from the Perkins Loan Program must be “packaged” with other expected financial assistance to ensure that the student's total aid does not exceed his/her cost of attendance. The packaging process is discussed in *Volume 3, Chapter 8*.

Chapter 3 Highlights

- Making a Perkins Loan
- Disclosure to student prior to 1st loan
- Perkins Promissory Note
 - Retaining the e-MPN
 - Customizing the MPN
- Subsequent disclosures & notifications

Perkins Loan limits

NEW

Annual maximum loan:
Undergraduate: \$5,500
Graduate: \$8,000
Aggregate maximum loan:
Undergraduate:
Grade levels 1 & 2: - \$11,000
Grade levels 3 & 4 - \$27,500
Graduate: \$60,000

See *Volume 3* for more detailed information on loan limits, award amounts, and packaging rules.

Making a loan

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

34 CFR 674.2

Older loans (NDSL/Defense)

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.

Collecting additional contact information

A school should also attempt to collect the following contact information at the time of disclosure:

- 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, to 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.)

Regulation cites

Disclosure
34 CFR 674.16(a)

DISCLOSURE TO STUDENTS PRIOR TO FIRST DISBURSEMENT

Before making the first Perkins Loan 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.

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 (see sidebar).

Your school must provide the disclosure information annually before the first disbursement of each Perkins Loan made under the MPN.

PERKINS 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.

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

It is also essential to report to the National Student Loan Data System that the loan has been paid.

Single vs. Multi-Year use of the MPN

The **Master Promissory Note (MPN)** for the Perkins Loan Program 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. 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. 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

School must use ED-approved MPN

A school must use the Federal Perkins MPN that the Department has approved for all Perkins loans.

NEW

The most recent version of the Perkins MPN was circulated with Dear Colleague Letter CB-09-05 (September 28, 2009), with minor corrections made based on CB-09-06.

CB-09-07 provided a revised implementation date of December 31, 2009. As of December 31, 2009, schools may no longer distribute the previous Perkins MPN with the June 30, 2009 expiration date. Only the revised Perkins MPN with the August 31, 2012 expiration date may be distributed on or after December 31, 2009.

However, if a school has already sent the Perkins MPN with the June 30, 2009 expiration date to a borrower before October 1, 2009, that MPN remains valid for making loans. Similarly, if a school uses the Perkins MPN as a multi-award year promissory note, students who previously signed the Perkins MPN with the June 30, 2009 expiration date may continue to receive loans under that MPN for future award years and are not required to sign the revised Perkins MPN.

For more information, see CB-09-05, CB-09-06, and CB-09-07.

MPN cites

Promissory Note

34 CFR 674.31

Retention of records

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

Limits to promissory note changes

34 CFR 674.31(a)

Limits on multi-year use of the MPN

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.

Implementing an electronic Perkins MPN

NEW A school that offers an electronic Perkins MPN must ensure that the text of their electronic version is updated to exactly match the text of the revised Perkins MPN with the August 31, 2012 expiration date. No changes may be made to the text of the MPN except as provided in Dear Colleague Letter CB-09-05 under “Document formats for the revised Perkins MPN and Addendum.” Schools using an electronic Perkins MPN should review the Department’s standards for electronic signatures as provided in Dear Partner Letter GEN-01-06 before implementing an electronic Perkins MPN. Schools wishing to obtain an electronic version (HTML) of the revised Perkins MPN should send a request to: Neil.Sattler@ed.gov. Source: DCL CB-09-07

Prior guidance

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. The Department issued instructions in Dear Colleague Letter CB-06-10 for using the revised Perkins Master Promissory Note (MPN)

Perkins Paper MPN mailing address

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

borrower requesting that the MPN no longer be used as the basis for additional loans.

If you choose to use the MPN as a single award-year promissory note, the borrower must sign a new Perkins MPN for each subsequent award year.

Retaining the electronic MPN

If the student completes an electronic MPN, your school must maintain the original electronic promissory note, plus a certification and other supporting information, regarding the creation and maintenance of any electronically-signed Perkins Loan promissory note or Master Promissory Note (MPN) and provide this certification to the Department, upon request, should it be needed to enforce an assigned loan. Schools and lenders are required to maintain the electronic promissory note and supporting documentation for at least 3 years after all loan obligations evidenced by the note are satisfied.

Using ED-approved MPN language & customizing the MPN

You must use an MPN using ED-approved language (see sidebar). You may not make changes to, deletions from, or additions to the prescribed language on the MPN. However, you may delete bracketed text and 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.

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.

Standards for electronic signatures: highlights for eNotes

In Dear Colleague Letter CB-06-11 ED issued a revised **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.

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).

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.

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.

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.

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.

SUBSEQUENT DISCLOSURES & NOTIFICATIONS

Loan amount, loan period & cumulative balance

Schools must provide loan amount and loan period information to the borrower through a means other than the MPN. Schools may provide this information in any number of formats, such as award letters or other written notifications and disclosures that schools are required to provide to the borrower.

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.

Loan disbursements

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.

You will need to retain subsidiary records of disbursements and adjustment to ensure that each Perkins Loan is legally enforceable. Actual disbursement records or student account records would serve this purpose.

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

Notification of disbursement

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.

Perkins Repayment, Forbearance, & Deferment

Repayment terms vary substantially among Perkins Loans, National Direct Student Loans, and National Defense Student Loans. Schools may obtain software from third-party vendors that have automated many of the following requirements and calculations. The Federal Perkins Loan Program offers borrowers a variety of forbearance and deferment options. These options do not allow for capitalization of interest at the end of any forbearance or deferment period.

GRACE PERIODS

A “grace period” is the period of time before the borrower must begin or resume repaying a loan. There are two kinds of grace periods for Perkins loans:

- *Initial grace period*—a 9-month grace period that immediately follows a period of enrollment and immediately precedes the date repayment is required to begin *for the first time*. A borrower is only entitled to one initial grace period.
- *Postdeferment grace period*—a 6-month grace period that follows any subsequent period of deferment.

Initial Grace Periods

A Perkins borrower is entitled to an initial grace period of 9 consecutive months after dropping below 1/2-time enrollment. If the borrower who returns to school on at least a 1/2-time basis before the 9 months have elapsed, the initial grace period has not been used. The borrower will be is entitled to a full initial grace period (9 consecutive months) from the date that he or she graduates, withdraws, or drops below 1/2-enrollment again.

Post-deferment grace periods

A “post-deferment grace period” is the period of 6 consecutive months that immediately follows the end of a period of deferment and precedes the date on which the borrower must resume repayment on the loan. Neither the deferment nor the grace period is counted as part of the 10-year repayment period.

Except for hardship deferments on loans made before July 1, 1993, all deferments for all loans made under the Federal Perkins Loan Program have post-deferment grace periods of 6 consecutive months.

Chapter 4 Highlights

- Grace periods
 - Calculating the grace period
- Establishing a repayment plan
 - Multiple loans
- Minimum monthly payments
- Establishing repayment dates
- Payment processing
- Forbearance
- Deferment procedures

Grace Period

Definitions

34 CFR 674.2

Length of initial grace period;

Grace period delayed during active duty;

Prepayment

34 CFR 674.31(b)

Less-than-1/2-time grace periods

34 CFR 674.32

Grace periods for NDSLs

Note that repayment of an NDSL made on or after October 1, 1980, begins **6 months** after the date that the borrower drops below at least 1/2-time enrollment.

NDSL on or after 10-1-80

- Initial grace period is 6 months
- Post-deferment period is 6 months

NDSL before 10-1-80

- Initial grace period is 9 months
- Post-deferment period is 6 months

Approved leaves of absence

34 CFR 668.22 (c)(1)(v) and (vi);
34 CFR 668.22 (d)

Deferment during initial grace period

If a borrower requests a deferment to begin during the initial grace period, the borrower must waive (in writing) his or her rights to the initial grace period. The request for a deferment alone is not sufficient documentation for a school to waive the initial grace period; the borrower must also acknowledge in writing that he or she wants the waiver.

Applicable grace period when student is attending less than 1/2-time

A borrower who is attending less than 1/2-time and who has no outstanding Perkin/NDSL Loan must begin repaying a new loan 9 months from the date the loan is made or 9 months from the date the student enrolled less than 1/2-time, whichever is earlier. (This 9-month period includes the date the loan was made.)

A borrower who is attending less than 1/2-time and who has an outstanding Perkins Loan or NDSL must begin repayment on an additional loan when the next scheduled installment of the outstanding loan is due; there is no formal grace period or in-school deferment on the new loan.

Calculating the grace period

A grace period is always day specific—an initial grace period begins the day after the day the borrower drops below 1/2-time enrollment. Similarly, a post-deferment grace period begins on the day immediately following the day on which an authorized period of deferment ends.

If a borrower has received loans with different grace periods (and different deferment provisions), the borrower must repay each loan according to the terms of its promissory note; the borrower must pay the minimum monthly payment amount that applies to each loan that is not in a grace or deferment period.

Grace period when student doesn't return from leave of absence

Students granted approved leaves of absence retain their in-school status for FSA loans. However, if a student does not return from an approved leave of absence, the student's grace period begins the date the student began the leave of absence. (If the school is required to take attendance, the grace period begins on the last date of academic attendance.)

For a student who does not return from an approved leave of absence, this withdrawal date might result in the exhaustion of some or all of the student's grace period.

Leaves of absence no longer qualify as approved leaves of absence for FSA purposes unless the school explains the effects that the student's failure to return from an approved leave of absence might have on the student's loan repayment terms, including the exhaustion of some or all of the student's grace period.

Use of initial grace period

Example: student returns before initial grace period elapses

Fenriz takes out a Perkins Loan in the fall quarter at Sims School of Botany, drops out of school for the winter quarter. He reenrolls as a 1/2-time student in the summer session, before the 9-month grace period has expired. Therefore, Fenriz is entitled to a full initial grace period once he again leaves school or drops below half-time status.

Example: different grace period for earlier loans

Steve took out several Perkins Loans while attending New Frontier Community College, and began repaying them 9 months after graduating. Later, he enrolled in a Bachelors degree program at Old Ivy College, and was able to defer his older Perkins Loans. He took out two additional Perkins Loans at Old Ivy.

When Steve graduates from Old Ivy, he is entitled to an initial grace period (9 months) for his Perkins Loans at Old Ivy, but must resume repaying his older Perkins loans (from New Frontier CC) at the end of the 6-month postdeferment period.

Exclusion for reservists on active duty

For a borrower who is a member of the Armed Forces Reserve, the initial grace period does not include any period up to 3 years during which the borrower is ordered to active duty for more than 30 days, including the period necessary for the borrower to resume enrollment at the next available enrollment period. The period necessary for the borrower to resume enrollment at the next available enrollment period may not exceed 12 months.

The borrower must notify you of the beginning and end dates of his or her service, and the date he or she resumes enrollment. A borrower who enrolls in a different educational program after returning from active duty is entitled to the same grace period benefits. A borrower who is in a grace period when called or ordered to active duty is entitled to a new grace period upon conclusion of the excluded period.

Grace periods & less than 1/2-time enrollment

Example: Perkins received while enrolled less than 1/2-time

Paula starts school full-time in September. She does not have an outstanding Perkins Loan or NDSL. In January, Paula drops to 1/4-time and in March, she receives a Perkins Loan.

Since Paula dropped below 1/2-time enrollment *before* the Perkins Loan was made, Paula must begin repayment 9 months after the date she dropped below 1/2-time enrollment—her first payment will be due in October.

Example: Second Perkins Loan received while first loan is in repayment

Jason has been making monthly payments on Perkins Loan #1, which went into repayment 9 months after he completed a one-year program at a career school.

He subsequently enrolls in a new program at a community college and takes out Perkins Loan #2 in September. He is only enrolled 1/4-time at the community college, so he is not eligible for in-school deferment. His next payment on Loan #1 is due October 15. Jason will begin repaying Loan #2 at the same time. *Remember that the repayment status of the outstanding loan determines the repayment status of the second loan.*

Calculating payment amount example

Bernadine received a \$2,500 Perkins Loan to attend Jordan College, which requires quarterly payments. To calculate Bernadine’s quarterly payment, Jordan College multiplies the original principal by the constant multiplier for a quarterly payment frequency:
 $\$2,500 \times .0319214 = \79.80

Incentive repayment program cite

34 CFR 674.33(f)

Interest rate on older Perkins, NDSLs, etc.

National Defense Student Loans (Defense Loans), NDSLs, and older Perkins Loans have different interest rates. The interest rate is stated in the borrower’s promissory note. The annual interest rate for loans made before July 1, 1981, was 3%; between July 1, 1981, and September 30, 1981, was 4%; on or after October 1, 1981, is 5%.

ESTABLISHING A REPAYMENT PLAN

A borrower must repay his or her loan, plus interest, in 10 years. This repayment period never includes authorized periods of deferment, forbearance, or cancellation.

The repayment plan must be established and disclosed to the student before the student ceases to be enrolled at least half-time.

If a borrower wants to repay the loan in graduated installments, he or she must request permission to do so from the school; if the school agrees to this type of repayment, a graduated installment schedule is prepared and submitted to the Department for approval. If the Department approves the school’s request, the borrower may use the graduated method of repayment.

If a student receives loans from more than one school, the repayment of each loan is made to (or default is attributed to) the school where the student received the loan.

Calculating the payment amount

Schools may require the borrower to make payments on a monthly, bimonthly, or quarterly basis. Each of the borrower’s payments must sufficiently cover the interest accruing between payments to ensure that the loan is repaid in 10 years. Schools calculate the correct payment amount by multiplying the principal by the appropriate constant multiplier (see table). Schools using the minimum monthly payment plan option, introduced in the next section, may require the borrower to pay a minimum monthly amount of \$40 instead.

If the installment for all loans a school made to a borrower is not a multiple of \$5, the school may round the installment payments to the next highest dollar amount that is a multiple of \$5.

If the last scheduled payment is \$25 or less, the school may combine it with the next-to-last payment.

10-year repayment table of constant multipliers

Annual Rate	Payment Frequency	Payments per year	Total Payments	Constant Multiplier
5%	Monthly	12	120	.0106065
5%	Bimonthly	6	60	.0212470
5%	Quarterly	4	40	.0319214

Principal X Constant Multiplier = Payment Amount

Interest accrual

Interest on a Perkins Loan must be computed at the rate of 5% per annum simple interest on the unpaid principal balance. Although interest accrues on a Perkins Loan, *your school may not capitalize it*. This means that your school may not add unpaid interest to the principal balance to increase the principal balance of the Perkins Loan. Instead, your school must track principal and interest as separate figures, adding accrued interest to the interest balance, *not* the principal balance.

Generally, interest is computed from the date a payment is received rather than from the due date. However, there are exceptions. Interest charges may be computed to the nearest first-of-the-month, or they may be computed in accordance with the borrower's established schedule of payments of principal and interest if the borrower is making payments on a regular basis according to that schedule. For example, if a grace period expires in the middle of a month, interest may be computed to the beginning of the next month. Also, if a past-due payment is received before the next regularly scheduled payment, the interest may be computed according to the established payment schedule—no adjustments are necessary.

Incentive repayment program

To encourage repayment, a school may:

- reduce a loan's interest rate by up to 1% if the borrower makes 48 consecutive monthly payments;
- discount by up to 5% the balance a borrower owes on a loan if he or she pays the loan in full before the end of the repayment period; or
- with the Secretary's approval, establish any other repayment incentive options that reduce default and replenish student loan funds.

A school may not use federal funds or school funds from the Perkins Loan revolving fund to absorb the costs associated with repayment incentives. On at least a quarterly basis, schools must reimburse the Perkins Loan Fund for income lost as a result of the discounts offered through the Incentive Repayment Program.

Prepayment

If the borrower repays more than the amount due for any repayment period after the initial grace period has ended, the school must use the excess to prepay principal, unless the borrower designates the excess as an advance payment on the next regular installment. If the borrower designates the excess as an advance payment on the next installment and that advance payment exceeds the amount of the next regularly scheduled installment, the school must use the excess to prepay principal.

The borrower may prepay all or part of the loan at any time without penalty. Amounts repaid during the academic year the loan was made and before the initial grace period has ended are not considered prepayments but must be used to reduce the original loan amount.

Payment made during initial grace period example

Shannon applies her yearly birthday check of \$400 to her \$1,000 Perkins Loan before the initial grace period ends. The principal advanced to Shannon becomes \$600. This is not considered a prepayment because payment was made before the end of the initial grace period.

Simple interest accrual example

Fred has been granted a hardship forbearance for a year. At the beginning of his forbearance period, Fred's loan balance is \$1,000:

Principal: **\$1,000**
Interest: **\$0**

Interest accrues throughout the forbearance period at a simple rate of 5% per annum. At the end of the year-long forbearance period, Fred's loan balance is \$1050:

Principal: **\$1,000**
Interest: **\$50**

When Fred makes his first payment after the end of the forbearance, his payment is applied to interest first, then principal. Fred makes a payment of \$25, reducing his balance to \$1025:

Principal: **\$1,000**
Interest: **\$25**

Minimum monthly repayment cite

34 CFR 674.33(b)

Minimum monthly repayment amount for older loans

The minimum monthly repayment amount is **\$30** for NDSLs, Perkins Loans made before October 1, 1992, and Perkins Loans made after October 1, 1992, to borrowers who have an outstanding balance on a Perkins Loan, NDSL, or Defense Loan made before October 1, 1992, that included a \$30 minimum monthly repayment provision. The minimum monthly repayment amount is **\$15** for Defense Loans.

If a borrower has both Defense and NDSL or Perkins Loan from one or more schools and the total monthly repayment is less than \$30 and the monthly repayment on a Defense Loan is less than \$15, the amount applied to the Defense Loan may not exceed \$15.

Hardship payment reduction

A school may reduce a borrower's scheduled payments for up to one year at a time if the borrower is scheduled to pay the \$40 minimum monthly payment and the school determines that the borrower is unable to make the scheduled payments due to hardship, such as prolonged illness or unemployment.

MINIMUM MONTHLY REPAYMENT AMOUNTS

Schools may choose to include a minimum monthly repayment requirement in the Perkins Loan promissory note. The minimum monthly repayment amount is \$40, unless the borrower on the date the new loan is made has an outstanding balance on a Perkins Loan, NDSL, or Defense Loan made before October 1, 1992, that included a \$30 minimum monthly repayment provision. (See sidebar.)

To determine the minimum repayment for bimonthly and quarterly payment schedules, schools should multiply \$40 by 2 (months) and 3 (months), respectively.

Conditions for minimum monthly repayment

A school may require a borrower to pay a minimum monthly payment amount of \$40 on a Perkins Loan if:

- the promissory note includes a provision specifying a minimum monthly repayment of \$40 and the monthly repayment of principal and interest for a 10-year repayment period (as calculated using a constant multiplier) would be less than \$40; or
- the borrower has received Perkins Loans with different interest rates at the same school and the total monthly payment would otherwise be less than \$40 (provided any of the promissory notes includes the minimum monthly repayment provision).

Under no circumstances may a school require a minimum monthly repayment of more than \$40.

Multiple loans at same school

If a borrower has multiple Perkins Loans from the same school, any of which include the minimum monthly payment provision, the school may require the borrower to make a minimum monthly payment if the borrower's total monthly payment on all the loans totals less than \$40. (A student's monthly payment amount may need to be higher than \$40, of course, so that his or her debt is repaid by the end of 10 years.)

If the school exercises this option, the school must divide each monthly payment among all the loans proportionate to the amount of principal advanced under each loan. If the borrower's total monthly payment equals or exceeds \$40 for all of the loans made at that school, the school may not exercise the minimum monthly payment on any loan. The school determines the minimum monthly repayment in this manner even if the Perkins Loans have different interest rates.

If the borrower has received Perkins Loans with different grace periods and deferments, the school must treat each note separately. The school still divides the minimum monthly payment proportionately among the loans. However, the borrower must pay each loan's portion when it is due.

Loans from multiple schools

A borrower may have received Perkins Loans from more than one school. If the borrower wants your school to coordinate minimum monthly payments with another school, he or she must request such coordination.

If the total of the monthly payments is

- *at least equal to \$40*, none of the lending schools may exercise the minimum monthly repayment requirement.
- *less than \$40, but only one school exercises the minimum monthly payment option*, that school receives the difference between \$40 and the repayment owed to the second school.
- *less than \$40 and each school exercises the minimum repayment option*, the \$40 minimum repayment is divided among the schools in proportion to the total amount of principal each has advanced.

If the borrower requests that your school coordinate minimum monthly payment amounts with another school, you should ask the borrower for

- the names of all other schools to which the borrower owes funds under the Federal Perkins Loan Program,
- the approximate amount borrowed from, and the current indebtedness to, each school, and
- any information that would help identify the loans—for example, the loan number and the dates of loan advances.

Using this information, the schools should contact each other and negotiate the amount each should receive from the borrower.

Two schools/minimum monthly payment amount example

Betsy has Perkins Loans from Heinz College and Elise University. Heinz does not exercise the minimum monthly payment option and receives from Betsy \$25 a month (the amount due under its established 10-year repayment plan). Elise exercises the \$40 option and receives from Betsy \$15, the difference between \$40 and the amount of principal and interest paid to Heinz.

Minimum monthly payment for multiple loans (same school)

Harv has Perkins Loans of \$1,500 and \$1,000 (for a total debt of \$2,500) and has a promissory note that includes the minimum monthly payment provision. Using the constant multiplier table, the total monthly payment on the two loans would be less than \$40:

Monthly payment on loan #1	
\$1,500 X .0106065 =	\$15.91
+ Monthly payment on loan #2	
\$1,000 X .0106065 =	<u>\$10.61</u>
= Total payment per month	\$26.52

Because the monthly payment on the two loans is less than \$40, Moore University may decide to exercise the minimum \$40 payment option. If the school does so, it calculates the monthly payment for each loan by dividing the original principal of the loan by the total original principal of all loans:

Monthly payment on loan #1	
\$1,500 ÷ \$2,500 =	.600000
	X \$40
	\$24
Monthly payment on loan #2	
\$1,000 ÷ \$2,500 =	.400000
	X \$40
	\$16
Monthly payment on loan #1	\$24
+ Monthly payment on loan #2	<u>\$16</u>
= Total payment per month	\$40

Use of fixed repayment dates

For collection and bookkeeping purposes, a fixed repayment date is preferred. Otherwise, if the borrower is entitled to a deferment, the school may have problems computing payments due.

ESTABLISHING REPAYMENT DATES

Depending on the repayment schedule (monthly, bimonthly, or quarterly), the borrower’s first payment is due one, two, or three months from the date the grace period expires. Repayment schedules must be adjusted (preferably on the first installment) so that the loan will be repaid within the normal 10-year period or as prescribed in the terms of the promissory note.

For convenience, a school may establish standard repayment dates for borrowers who are on quarterly repayment schedules. The first repayment date may be the first day of the calendar quarter after the grace period has expired. Four standard repayment dates would be used: January 1, April 1, July 1, and October 1. (See the chart below.)

Alternatively, a school may adopt a “rolling” quarterly repayment schedule in which each borrower’s first payment is due exactly three months after the date his or her grace period expires. For example, if a borrower’s first grace period expires on May 17, the first installment payment is due August 18. Another borrower’s grace period expires May 18, so the first installment payment on that loan is due August 19.

Once the payment date is established, the borrower will owe principal and interest for any portion of a scheduled installment period not covered by a deferment. However, if the borrower is in deferment on a due date, any amounts owed are carried over and paid on the first due date on which the borrower is out of deferment.

Perkins Loan Quarterly Billing Example (with four standard repayment dates)

Borrower’s Termination Date	Initial 9-Month Grace Period Ends	Installment Due
January 1	September 30	January 1
February 1	October 31	“
March 1	November 30	“
April 1	December 31	April 1
May 1	January 31	“
June 1	February 28	“
July 1	March 31	July 1
August 1	April 30	“
September 1	May 31	“
October 1	June 30	October 1
November 1	July 31	“
December 1	August 31	“

Extending repayment period for illness, unemployment, or low income

A school may extend a repayment period if the borrower is experiencing a period of prolonged illness or unemployment.

A school may also extend the repayment period for a Perkins Loan if, during the repayment period, the school determines that the borrower qualifies as a *low-income individual*. A low-income individual is one whose total income for the preceding calendar year does not exceed the maximum income level for his/her family size (see chart).

In the case of low-income individuals, the repayment period may be extended up to 10 additional years. The school must review the borrower's income status annually to determine whether he or she still qualifies as a low-income individual.

Once a borrower ceases to qualify for one of these extensions, his or her repayment schedule must be amended so that the number of months in it does not exceed the number of months remaining on the original repayment schedule (not counting the extension period).

There are two other ways that a school may adjust the repayment schedule for a borrower who qualifies as a low-income individual:

- The school may require the borrower to pay a reduced amount for a limited time and then later increase the payment amount so that the borrower catches up on payments. The repayment period does not have to be extended. For example, a school reduces the payment amount to \$10 per month for six months and then increases it to \$50 per month until the borrower catches up.
- The school may allow the borrower to pay \$10 per month for a year and then resume normal payments. This type of adjustment extends the repayment period.

Interest continues to accrue during an extension of a repayment period for any of these reasons.

PAYMENT PROCESSING

Any payment a school receives must be applied in the following order:

1. collection costs;
2. late charges (or penalty charges);
3. accrued interest; and
4. principal

Past-due payments should be applied in the same order as other payments, except that past-due payments must be applied to the "oldest" past-due dollars first.

Forms/procedures for disability discharge

See Dear Colleague Letter GEN-06-14 for total and permanent disability discharge forms and procedures.

Low-income maximum income levels

The following amounts are applicable for the 2009–2010 award year.

Number of family members:

1.....	\$10,967
2.....	\$19,800
3.....	\$24,663
4.....	\$30,463
5.....	\$35,938
6.....	\$42,038

For families of more than 6, add \$4,000 for each additional family member.

These amounts are derived from the Income Protection Allowance published in the May 29, 2008 Federal Register.

See 34 CFR 674.33(c)

Repayment period extension

34 CFR 674.33(c)

Forbearance

34 CFR 674.33(d)

The HEOA eliminates the requirement that a forbearance request be in writing.

HEOA 464

HEA 464(e)

Paying interest during forbearance period

Unlike deferment, interest continues to accrue during any period of forbearance. The borrower may request to pay interest as it accrues during periods of forbearance, but the school *may not* require the borrower to do so.

Calculating equivalent monthly payment (hardship forbearance)

If the borrower's loan payments are due less frequently than monthly, a proportional share of the payments is used to determine the equivalent in total monthly payments. For example, if a payment is due quarterly, divide the amount by 3 (because the payment covers 3 months) to determine the equivalent monthly payment amount.

FORBEARANCE

Forbearance is usually a temporary postponement of payments. Forbearance is available for all loans made under the Federal Perkins Loan Program, regardless of when they were made.

The borrower may alternatively request an extension of time allowed for making payments or the acceptance of smaller payments than were previously scheduled.

Schools may grant forbearance to borrowers who are experiencing financial hardship, poor health, or for other acceptable reasons. For example, the Department strongly encourages schools to grant periods of forbearance to borrowers who are serving in AmeriCorps. Also, the Department may authorize periods of forbearance due to national military mobilization or other national emergency.

Borrowers must request forbearance and provide supporting documentation of the reason for forbearance. (Schools may now process forbearance requests based on a verbal request from a borrower.) The school and borrower must agree to the terms of the forbearance. The school confirms this agreement by notice to the borrower, and by recording the terms in the borrower's file.

Schools may grant the borrower forbearance for a period of up to 1 year at a time. The forbearance may be renewed, but the periods of forbearance collectively may not exceed a total of 3 years. A school may apply an authorized period of forbearance to begin retroactively (that is, to begin on an earlier date than the date of the borrower's request) if the borrower requests that the school do so and if he or she provides adequate documentation to support the request.

Schools may not include periods of forbearance in determining the 10-year repayment period.

Hardship

A school must grant forbearance if the total amount the borrower is obligated to pay monthly on all FSA loans is equal to or greater than 20% of the borrower's total monthly gross income. Total monthly gross income is the gross amount of income received by the borrower from employment (either full-time or part-time) and from other sources.

To receive forbearance for hardship, the borrower must submit at least the following documentation:

- evidence of the amount of the borrower's most recent total monthly gross income; and
- evidence of the amount of the monthly payments the borrower owes for the most recent month on his or her FSA loans.

DEFERMENT PROCEDURES

Under certain circumstances, a borrower is entitled to have the repayment of a loan deferred. During deferment, the borrower is not required to pay loan principal and interest does not accrue. After each deferment, the borrower is entitled to a post-deferment grace period of 6 consecutive months.

In most cases, the borrower must request deferment *unless* the borrower is engaged in service that may qualify for loan cancellation or the school can determine that the borrower is enrolled at least half-time at an eligible school. Borrowers are no longer required to request deferments in writing. However, a borrower who requests deferment must provide the school with all the information and documents the school requires by the school's deadline. Borrowers must immediately report any change in their deferment status to lending schools.

You may grant a deferment, at the borrower's request, based on the information from another Perkins school, a FFEL loan holder, the Department of Education or the National Student Loan Data System (NSLDS) that a borrower has been granted a deferment for the same reason and the same time period on the borrower's FFEL loan or Direct Loan. This simplified deferment granting process is optional, and only applies to in-school deferments, graduate fellowship deferments, rehabilitation training program deferments, unemployment deferments, economic hardship deferments, military service deferments, and active duty student deferments.

If a borrower is currently in deferment, the school must reaffirm continued eligibility for deferment on at least an annual basis (except for Peace Corps service—see sidebar). Schools may not include periods of deferment in the 10-year repayment period.

Concurrent deferment/cancellation

Schools must automatically defer loans during periods when the borrower is performing service that will qualify him or her for loan cancellation. Borrowers do not need to apply for concurrent deferment. Schools may grant concurrent deferment for up to 12 months at a time. Concurrent deferment is available to all loans made under the Federal Perkins Loan Program, regardless of disbursement date and contrary provisions on the promissory note.

A borrower who receives concurrent deferment is also entitled to a post-deferment grace period of 6 consecutive months. Therefore, regardless of the length of time that the eligible service is performed, repayment is deferred during that period of service and does not resume until 6 months after the cessation of service.

Schools exercising the minimum monthly payment provision listed in the promissory note must cease doing so and grant a deferment to cover any period of qualifying service. The amount to be deferred and subsequently canceled must be calculated using the 10-year repayment period.

Deferments—Perkins regulations

§ 674.34 Deferment of repayment—Federal Perkins loans, NDSLs and Defense loans.

§ 674.35 Deferment of repayment—Federal Perkins loans made before July 1, 1993.

§ 674.36 Deferment of repayment—NDSLs made on or after October 1, 1980, but before July 1, 1993.

§ 674.37 Deferment of repayment—NDSLs made before October 1, 1980 and Defense loans.

§ 674.38 Deferment procedures.

Deferment forms

The Department does not approve or supply deferment forms, with the exception of the military deferment form, see DCL GEN-07-04 for more detail.

Postponement for loans made Prior to October 7, 1998

Prior to October 7, 1998, a borrower of a Perkins Loan, National Direct Student Loan (NDSL), or National Defense Student Loan (Defense Loan) made before July 1, 1993, could not receive a deferment during a period while he or she was performing a service that would subsequently qualify him or her for cancellation of all or a portion of the loan; rather, he or she could qualify for loan postponement. For information on postponement, see Chapter 6 of the *Federal Student Financial Aid Handbook, 1998–99*.

Concurrent deferment cites

34 CFR 674.34(c)

34 CFR 674.52(d)

Peace Corps deferment

If the borrower is currently in economic hardship deferment for service in the Peace Corps, the school may grant deferment for the full term of the borrower's service, not to exceed 3 years or for the remaining period of economic hardship deferment eligibility, if it is less than the remaining period of service.

Deferments on defaulted loans

The policy permitting deferments on defaulted loans applies to all requests for deferment received after February 3, 1988, regardless of the date the loan was made.

Acceleration

Loan acceleration is one of the penalties a school may impose on a defaulted loan. A loan that has been accelerated becomes due and payable immediately in one lump sum. See Chapter 6 of this Volume.

NEW Elimination of the 20/220 Criterion

34 CFR 674.34

Beginning July 1, 2009 the 20/220 criterion for receiving an economic hardship deferment will be eliminated except for eligible borrowers who requested a deferment after July 1, 2009 for a period that began prior to July 1, 2009. The deferment period is limited to 12 months from the pre-July 1, 2009 start date. No additional economic hardship deferment periods may be granted to the borrower at the end of that deferment period, or for any deferment request on or after July 1, 2009, for a deferment period that begins on or after that date.

Approval for graduate fellowship and rehabilitation training programs

The Department bases its approval of graduate fellowship and rehabilitation training programs on the requirements for the Federal Family Education Loan Program— see 34 CFR 682.210(d) and 34 CFR 682.210(e).

Deferment and default

A borrower is not entitled to a deferment on a defaulted loan. If the borrower signs a new repayment agreement, however, a school may grant a deferment even if the school has “accelerated” the loan. The school would have to de-accelerate the loan before granting the deferment.

The borrower must file for deferment by a deadline that the school establishes and provide satisfactory documentation that he or she qualifies for the deferment.

Before granting a deferment on a defaulted loan, the school may require the borrower to pay immediately late fees, collection costs, and some or all of the amount past due as of the date on which the school determined that the borrower had demonstrated eligibility for a deferment. The Department encourages schools to require the borrower to do so, thus “curing” the default.

A school is not required to grant deferments on loans in default. However, if a school does so, it is expected to calculate past-due accrued interest. If a school believes this is too burdensome, it may deny deferments on defaulted loans.

Maintaining in-school enrollment status vs. in-school deferment

When a student borrower graduates or leaves school, and subsequently reenroll at another school before the initial grace period expires, he or she retains “in-school” enrollment status and does not “use up” the 9-month initial grace period.

The borrower is entitled to a full initial grace period when he or she ceases half-time enrollment in the new program.

The borrower may submit proof at any time—even after a loan has been accelerated—that he or she reenrolled at least half-time before the initial grace period expired. Upon receipt of this proof, *the school must recalculate the first date of repayment.* The school must also deduct from the loan balance any interest accrued and any late charges added before the date the repayment period actually should have begun.

Note that the borrower remains responsible for payments that would have been due under the recalculated repayment period and that the school is not obligated to grant a deferment for any payments past due under that period.

If a Perkins borrower graduates or leave school, and reenrolls at least half-time in an eligible postsecondary school *after* the initial grace period has expired, the student is no longer in in-school enrollment status. However, the student may be eligible for an in-school *deferment* (see box on next page). Keep in mind that the grace period after a *deferment* is only 6 months.

Deferments for all Perkins Loans

The deferments that follow are available to all loans made under the Federal Perkins Loan Program, regardless of disbursement date or contrary provisions in the promissory note.

In-school deferment

A borrower may defer repayment of a Perkins Loan if he or she is enrolled at least half-time in an eligible school.

To receive an in-school deferment, the borrower must be enrolled as a regular student in an eligible institution of higher education or a comparable institution outside the United States approved by the Department for deferment purposes. A regular student is one who is enrolled for the purpose of obtaining a degree or certificate. (The eligible institution need not participate in the Federal Perkins Loan Program.)

If the borrower is attending at least half-time as a regular student for a full academic year and intends to do so in the next academic year, he or she is entitled to a deferment for **12 months**. This means that a school must continue to apply the in-school deferment through the summer session, even if the borrower does not attend classes during the summer session. In-school deferment ends on the day the borrower graduates or drops below half-time enrollment.

Schools may grant in-school deferments to borrowers based on student enrollment information provided by third-party servicers or other schools. The enrollment information must establish that the borrower is enrolled as a regular student on at least a half-time basis. If a school grants deferment based on this information, the school must notify the borrower of the deferment and offer the option to cancel deferment and continue repayment of the loan.

If a borrower is attending a school that ceases to qualify as an institution of higher education, the borrower's deferment ends on the date the school ceases to qualify.

Except for a program in dentistry, an in-school deferment may not be granted to a borrower who is serving in a medical internship or residency program.

Graduate fellowship

A borrower may defer repayment if he or she is enrolled and in attendance as a regular student in a course of study that is part of a graduate fellowship program approved by the Department, including graduate or postgraduate fellowship-supported study (such as a Fulbright grant) outside the United States. To receive deferment for enrollment in a graduate fellowship program, the borrower must provide certification that he or she is engaged in full-time study in an approved graduate fellowship program (or has been accepted by the program).

Rehabilitation training

A borrower may defer repayment if he or she is enrolled in a course of study that is part of a Department-approved rehabilitation training program for disabled individuals.

To receive this deferment, the borrower must provide the school with certification that:

- the borrower is receiving, or scheduled to receive, rehabilitation training from the agency;
- the agency is licensed, approved, certified, or otherwise recognized by a state agency responsible for programs in vocational rehabilitation, drug abuse treatment, mental health services, or alcohol abuse treatment; or by the Department of Veterans Affairs; and
- the agency provides or will provide the borrower rehabilitation services under a written plan that (1) is individualized to meet the borrower's needs; (2) specifies the date that services will end; and (3) is structured in a way that requires substantial commitment from the borrower.

A substantial commitment from the borrower is a commitment of time and effort that would normally prevent the borrower from holding a full-time job either because of the number of hours that must be devoted to rehabilitation or because of the nature of the rehabilitation.

Seeking full-time employment

A borrower may defer repayment on a Perkins Loan for up to 3 years, regardless of disbursement date and contrary provisions on the promissory note, if the borrower is seeking and unable to find full-time employment. Schools may determine the documents the borrower must provide to apply for this deferment.

Economic hardship

A borrower is entitled to an economic hardship deferment for periods of up to 1 year at a time, not to exceed 3 years cumulatively, if the borrower provides the school with satisfactory documentation showing that:

1. The borrower has been granted an economic hardship deferment for either a Stafford or PLUS Loan for the same period of time for which the Perkins Loan deferment has been requested.
2. The borrower is receiving federal or state general public assistance, such as Temporary Assistance to Needy Families, Supplemental Security Income, or Food Stamps.
3. The borrower is working full-time* and is earning a total monthly gross income that does not exceed (1) the monthly earnings of someone earning the minimum wage, or (2) 150% of the poverty line** for the borrower's family size.***
4. The borrower is not receiving total monthly gross income that is more than twice the amount in (3) above and that income minus an amount equal to the borrower's monthly payments on federal postsecondary education loans does not exceed the amount specified in (3) above.

The borrower must submit at least the following documentation:***

- evidence showing the amount of the borrower's most recent total monthly gross income from all sources—that is, the gross amount of income the borrower received from employment (either full-time or part-time) and from other sources; and
- evidence showing the most recent monthly amount due on each of the borrower's federal postsecondary education loans, as determined by the method described below

If the repayment schedule for the loan is *10 years or less*, use the actual monthly payment amount. If the repayment schedule for the loan is *more than 10 years*, use a monthly payment amount that would have been due for a 10-year repayment schedule. If the borrower's payments are due less frequently than monthly, use the payment amount that is proportional for a month.

5. The borrower is serving as a volunteer in the Peace Corps. Schools may grant deferments for Peace Corps service for periods longer than 1 year at a time, but these periods must not collectively exceed 3 years.

Note that the deferment provision for borrowers whose debt burden exceeds 20% of total monthly gross income has been eliminated. See the *2008–09 FSA Handbook* for details on the 220% limitation for that deferment.

* a borrower is considered to be working full-time if he or she is expected to be employed for at least 3 consecutive months for at least 30 hours per week.

** The poverty guidelines are published annually by the Department of Health and Human Services. If a borrower is not a resident of a State identified in the poverty guidelines, the poverty guideline to be used for the borrower is the poverty guideline (for the relevant family size) used for the 48 contiguous States.

***To qualify for a *subsequent* period of deferment that begins less than 1 year after the end of the deferment described in option 3 or 4 above, the borrower must submit a copy of his or her federal income tax return if the borrower filed a tax return within the 8 months preceding the date the deferment is requested.

Determining maximum monthly gross income & 150% of poverty line (#3)

Monthly gross income at minimum at minimum wage

The current hourly minimum wage is available at www.dol.gov/dol/topic/wages/minimumwage.htm

To find monthly gross income, multiply the minimum wage by the typical work-hours in a year (2008), and then divide this amount by 12 months.

As of July 24, 2008, the minimum wage is \$6.55, making the current monthly gross income of a minimum wage earner \$1,135.33.

Determining 150% of the poverty line for the borrower's family size

Annual poverty line guidelines, as defined by Section 673(2) of the Community Service Block Grant Act, are available at <http://aspe.hhs.gov/poverty/poverty.shtml>

Note that an unborn child may be included if that child will be born during the year the borrower certifies family size or for the period the borrower requests an economic hardship deferment.

Military service deferment

A borrower who is serving on active duty or performing qualifying National Guard duty in connection with a war, military operation, or national emergency does not need to pay principal or interest on Perkins, NDSLs, and Defense Loans.

The overall 3-year limit for this deferment was eliminated in October of 2007, as was the provision that limited the availability of the deferment to loans first disbursed on or after July 1, 2001. A borrower may receive deferment for all eligible outstanding loans in repayment as of October 1, 2007. A borrower whose deferment eligibility had expired due to the prior 3-year limitation and who was still serving on eligible active duty on or after October 1, 2007 may receive the deferment retroactively from the date the prior deferment expired until the end of the borrower's active duty service.

Effective October 1, 2007, the deferment now is extended 180 days for qualifying periods of service that include October 1, 2007 or that begin on or after that date. This additional period is available each time a borrower is demobilized at the conclusion of qualifying service. This additional 180 day deferment may not be granted without documentation supporting the borrower's claim of end-of-military-service date.

A borrower may not be reimbursed for any payments made by or on behalf of a borrower during a period for which the borrower qualified for a deferment.

13-month post-active duty deferment

Effective October 1, 2007, borrowers who are members of National Guard or Armed Forces Reserve, and members of the Armed Forces who are in retired status, are eligible for a 13-month period of deferment on repayment of their Perkins loans following the completion of their active duty military service if they were enrolled in a postsecondary school at the time of, or within 6 months prior to, their activation. Many borrowers may also be eligible for the military service deferment described above, and a student may receive both deferments if eligible. If a student receives both, the overlapping periods of deferment will run concurrently.

A borrower returning from active duty who is in a grace period is not required to waive the grace period to use the 13-month post-active duty student deferment. If the borrower reenrolls in postsecondary school (at least half-time) prior to the expiration of the 13-month period, the deferment ends on the date the student re-enrolls.

Unlike the military service deferment described above, students receiving the active duty student deferment need not be activated during a war, national emergency, or other military operation.

For purposes of the active duty student deferment, "active duty" has the same meaning as in Section 101(d)(1) of Title 10, United States Code, but does not include active duty for training or attendance at a service school/academy.

Members of the National Guard may qualify for this deferment for Title 32 full-time National Guard duty under which a Governor is authorized, with the approval of the President or the U.S. Secretary of Defense, to order a member to State active duty and the activities of the National Guard are paid for by federal funds; or for State active duty under which a Governor activates National Guard personnel based on State statute or policy, and the activities of the National Guard are paid for by State funds. Active duty does not include a borrower who is serving full-time in a permanent position with the National Guard, unless the borrower is reassigned as part of a call-up to active duty service.

Military service definitions

For purposes of the military service deferment—

Active duty means full-time duty in the active military service of the United States, except that it does not include active duty for training or attendance at a service academy.

Performing National Guard duty means training or other duty, other than inactive duty, when called to active service authorized by the President of the United States or Secretary of Defense for a period of more than 30 consecutive days in connection with a war, national emergency, or other military operation.

Military operation means a contingency operation that is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or an opposing military force.

National emergency means a national emergency by reason of terrorist attacks as declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

Deferments for Loans Made Before July 1, 1993

The deferments in this section are only available for Perkins Loans made before July 1, 1993, and NDSLs made between October 1, 1980 and July 1, 1993. For information on deferment provisions exclusive to loans made before October 1, 1980, see the *1994–95 Federal Student Financial Aid Handbook* or 34 CFR 674.37.

Military & related service deferments

A borrower may defer repayment for up to 3 years and interest will not accrue while he or she is:

- a member of the U.S. Army, Navy, Air Force, Marines, or Coast Guard;
- a member of the National Guard or the Reserves serving a period of full-time active duty in the armed forces;
- an officer in the Commissioned Corps of the U.S. Public Health Service;
- (for Perkins Loans made before July 1, 1993, only) on full-time active duty as a member of the National Oceanic and Atmospheric Administration Corps.

Parenting deferments [for Perkins Loans made before July 1, 1993, only.]

A borrower may defer repayment (and interest will not accrue) during a period of up to 1 year if the borrower is a mother of a preschool-age child, provided the mother is working (or going back to work) at a salary that is no more than \$1.00 above the minimum hourly wage.

A borrower may also defer repayment for up to six months if the borrower is pregnant, or if he or she is taking care of a newborn or newly adopted child. This deferment is called a parental leave deferment. The borrower must be unemployed and not attending school and must apply for deferment within 6 months of leaving school or dropping below half-time status.

Hardship deferments

Loans disbursed before July 1, 1993 are eligible for an additional type of hardship deferment, which is *separate and different* from an *economic* hardship deferment.

A borrower may defer repayment for hardship, as determined by the school (for example, if the borrower is facing a prolonged period of illness or unemployment). A borrower may qualify for *unlimited* deferments due to hardship.

Interest will continue to accrue during the hardship deferment. Also, hardship deferments *do not* have post-deferment grace periods.

Service as (or comparable to) Peace Corps/AmeriCorps*VISTA Volunteer

A borrower may defer repayment for up to three years and interest will not accrue while he or she is a Peace Corps or AmeriCorps*VISTA (under Title I, Part A of the Domestic Volunteer Service Act of 1973) volunteer or providing comparable service. A borrower is considered to be providing service comparable to Peace Corps or AmeriCorps*VISTA service if he or she meets *all* of the following five criteria:

1. The borrower serves in an organization that is exempt from taxation under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1954;
2. The borrower provides service to low-income persons and their communities to assist them in eliminating poverty and poverty-related human, social, and environmental conditions;
3. The borrower does not receive compensation that exceeds the rate prescribed under Section 6 of the Fair Labor Standards Act of 1938 (the federal minimum wage), except that the tax-exempt organization may provide the volunteer with health, retirement, and other fringe benefits that are substantially equivalent to the benefits offered to other employees of the organization;
4. The borrower, as part of his or her duties, does not give religious instruction, conduct worship service, engage in religious proselytizing, or engage in fund-raising to support religious activities; and
5. The borrower has agreed to serve on a full-time basis for a term of at least 1 year.

Temporary Total Disability Deferment

An affidavit from a qualified physician is required to prove disability. (A qualified physician is a doctor of medicine or osteopathy who is legally authorized to practice medicine.) A borrower is temporarily totally disabled if he or she is, due to illness or injury, unable to attend an eligible school or to be gainfully employed during a reasonable period of recovery.

A borrower may receive deferment for temporary total disability of a spouse or dependent if the spouse or dependent requires continuous nursing or other services from the borrower for a period of at least 3 months due to illness or injury.

The definition of dependent for temporary total disability deferment purposes is the same as the definition used in the *Free Application for Federal Student Aid* (FAFSA) for a member of the independent applicant's household: A borrower's dependent is a child who receives more than half of his or her financial support from the borrower or another person who lives with the borrower and who receives more than half of his or her financial support from the borrower.

Internship/Residency Deferment

A borrower who is serving in a medical internship or residency program is not considered to be in school for deferment purposes and may not receive an in-school deferment on that Perkins Loan for the internship or residency program; however, the borrower is eligible for an *internship deferment* for up to 2 years.

While the borrower is serving an eligible internship, he or she may defer repayment for up to 2 years. Interest will not accrue during the internship deferment. An eligible internship is one that requires the borrower to hold at least a bachelor's degree before beginning the program.

The internship must also be *required by a state licensing agency* as a prerequisite for certification of the individual for professional practice or service. The borrower must provide the school certification from an official of the appropriate state licensing agency indicating that the successful completion of the internship is required by the state licensing agency as a prerequisite for certification for professional practice or service. The borrower must further provide a statement from the organization where the borrower will be an intern certifying:

- that applicants must hold a bachelor's degree to be admitted into the internship program;
- that the borrower has been accepted into the internship program; and
- the dates when the borrower is expected to begin and complete the program.

Borrowers of Perkins Loans made before July 1, 1993, may alternatively show that the internship or residency program *leads to a degree or certificate* awarded by an institution of higher education, a hospital, or a health care facility offering postgraduate training. The borrower must provide the school with a statement from an authorized official of the internship program certifying that:

- an individual must have a bachelor's degree to be admitted into the program;
- the borrower has been accepted into the program; and
- the internship or residency program leads to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training.

Perkins Cancellation

*A borrower may have all or part of his or her loan (including interest) cancelled for engaging in teaching, public service, service in the Peace Corps or AmeriCorps*VISTA, or service in the military. In addition, loans may be discharged if the borrower becomes disabled or dies, or in certain cases involving bankruptcy.*

GENERAL CANCELLATION PROVISIONS

Application for cancellation

The following cancellation application procedures apply to any loan under this program.

The borrower applies for cancellation of his or her loan by obtaining the appropriate cancellation form from the business or student loan office of the school that made the loan (or from the school's billing service if it uses one). The borrower submits the form to the school, along with any supporting documentation the school requests, by the deadline the school establishes. Schools determine, based on the borrower's documentation, whether the borrower is entitled to have any portion of his or her loans cancelled. This responsibility cannot be delegated. For information on documentation, see the appropriate cancellation category in this section.

For teacher cancellations, the cancellation form the borrower files must be signed by an official in the school system or agency to certify the borrower's service.

ED reimbursement to school

For Perkins Loans and NDSLs, the Department will reimburse each school every award year for the principal and interest cancelled from its Perkins Loan Fund for all of the cancellation provisions except for death, total and permanent disability, bankruptcy, and closed school discharge. The school must deposit in its fund the amount reimbursed. Note that interest does not accrue on any loan during the period that a borrower is performing service to qualify for cancellation benefits. Schools are not required to deposit reimbursements for loans made prior to July 1, 1972, into the Perkins Loan Fund. These reimbursements are considered institutional funds. For more information and a full Q&A on reimbursing amounts cancelled, see Dear Colleague Letter CB-05-08.

Concurrent deferment

Schools must automatically defer loans during periods of service for which schools also grant loan cancellation. Borrowers do not need to apply for these automatic deferments.

Chapter 5 Highlights

- General cancellation provisions
- Cancellation restrictions
- Elementary/Secondary teacher cancellation
 - teaching in low-income schools
 - teaching in special education
 - teaching in teacher shortage fields
 - low-income educational service agency
- Public service cancellations
 - New cancellations for public service
 - Nurse or Medical Technician
 - Child or Family Services
 - Early Intervention
 - Prekindergarten, childcare, Head Start
 - Law enforcement, corrections officer, public defender
 - Military service (active duty)
 - Volunteer Service
- Definitions of terms
- Discharging Perkins Loans
 - Death or permanent disability discharge
 - Closed school discharge
 - Bankruptcy discharge
 - Discharge for 9-11 victims

Perkins cancellation extended to loans prior to 10-7-1998

The Higher Education Act was amended to extend all service cancellations to all Perkins, NDSL, and Defense Loan borrowers who were previously ineligible as of October 7, 1998. However, only periods of qualifying service performed on or after October 7, 1998, are eligible for cancellation benefits if the borrower was not previously eligible due to the date the loan was made.

Cancellation procedures

34 CFR 674.52

Cancellation rates for military, teachers/public servants

With the exception of cancellations for Head Start and volunteer service, the cancellation rate per completed year of qualifying full-time service is:

- 15% of the original principal loan amount—plus the interest that accrued during the year—for each of the first and second years;
- 20% of the original principal loan amount—plus the interest that accrued during the year—for each of the third and fourth years; and
- 30% of the original principal loan amount—plus any interest that accrued during the year—for the fifth year.

A “year of service” consists of 12 consecutive months of service, except for teaching service, where the borrower must teach full-time for a full academic year or its equivalent.. For cancellation rates for Head Start and volunteer service, please see the corresponding sections in this chapter.

Payment refund cite

34 CFR 674.62(b)

Prior service cite

34 CFR 674.62(a)

Defaulted loans cite

34 CFR 674.52(c)

National community service cite

34 CFR 674.52(e)

CANCELLATION RESTRICTIONS

Prior service & payments prior to cancellation

Schools may not cancel any portion of a loan for services the borrower performed either before the date the loan was disbursed or during the enrollment period covered by the loan.

Schools may not refund payments made during a period for which the borrower qualified for a cancellation, unless the borrower made the payment because of the school’s error. To reduce the chance of error, a school should keep the borrower informed of any new cancellation benefits.

Defaulted loans

A school may cancel a defaulted loan if the only reason for the default was the borrower’s failure to file a cancellation request on time. If the loan has already been **accelerated**, only eligible service performed **prior** to the date of acceleration can be considered for cancellation. A borrower is not entitled to cancellation for any eligible service performed **after** the date of acceleration.

Americorps recipients

Schools may not grant cancellation of a Perkins Loan or National Direct Student Loan (NDSL) to a borrower who has received a national service education award for volunteer service with Americorps (Subtitle D of Title I of the National and Community Service Act of 1990).

ELEMENTARY/SECONDARY TEACHER CANCELLATION

Schools may cancel up to 100% of a Perkins Loan if the borrower has served full-time in a *public or nonprofit elementary or secondary school system* as:

- a teacher in a school serving students from low-income families;
- a *special-education* teacher, including teachers of infants, toddlers, children, or youth with disabilities,
- a teacher in a *teacher shortage field*, including mathematics, science, foreign languages, or bilingual education,
- in any other field of expertise that is determined by a state education agency to have a shortage of qualified teachers in that state,
- a teacher in a low-income educational service agency (including special education teachers). See sidebar. **NEW**

Eligibility for teacher cancellation is based on the duties presented in an official position description, not on the position title. To receive a cancellation, the borrower must be **directly employed** by the school system.

Cancellation for teaching in low-income schools

A cancellation based on teaching in a school serving students from low-income families or a location operated by an educational service agency may be granted only if the borrower taught in an eligible school or ESA that is listed in the *Directory of Designated Low-Income Schools for Teacher Cancellation Benefits*. (See sidebar.)

If a borrower is teaching at a school that is on the list one year but not in subsequent years, the borrower may continue to teach in that school and remain eligible to receive a cancellation for service in that school.

Cancellation for teaching in special education

A school must cancel up to 100% of the outstanding balance on a borrower's Perkins loan for a full-time special education teacher of infants, toddlers, children, or youth with disabilities. The teaching service must be performed in a public or other nonprofit elementary or secondary school system.

A person performing one of the following services is considered a teacher if the service is part of the educational curriculum for handicapped children:

- speech and language pathology and audiology;
- physical therapy;
- occupational therapy;
- psychological and counseling services; or
- recreational therapy

To qualify for cancellation, the borrower must be licensed,

Teacher cancellation

Teacher definition 34 CFR 674.51(q)
 Academic year definition: 34 CFR 674.51(a)
 Part-time 34 CFR 674.52(b)(1)(i)
 Low-income schools 34 CFR 674.53(a)
 Teaching children & adults 34 CFR 674.53(f)
 Field of expertise 34 CFR 674.51(r)

Teacher Loan Forgiveness Application and
 Forbearance Forms
 Dear Colleague Letter CB-06-13

NEW Teachers in a low-income education service agency

Cancellations are for eligible service that includes August 14, 2008, or begins on or after that date, regardless of whether the cancellation category appears on the borrower's promissory note.

HEOA section 465
 HEA section 465(a)
 DCL GEN-08-12

Teacher cancellation directory

You can identify schools that are eligible for Perkins deferment and cancellation by searching the *Teacher Cancellation Low-Income Directory* online at:
<https://www.tcli.ed.gov>

BIA schools

All elementary and secondary schools operated by the Bureau of Indian Affairs (BIA) are considered to qualify as schools serving low-income families for the purpose of teacher cancellations of Perkins Loans and NDSLs. Elementary and secondary schools operated on reservations by Indian tribal groups under contract with the BIA are also considered to qualify for this purpose.
 34 CFR 674.53(a)(5)

Job Corps teachers

Teaching service performed in a Job Corps Project does not qualify for Perkins cancellation unless the teaching is conducted in an elementary or secondary school or school system.

Who is a teacher?

A teacher is a person who provides students direct classroom teaching, classroom-type teaching in a non-classroom setting, or educational services directly related to classroom teaching (e.g., school librarian, guidance counselor).

It is not necessary for a teacher to be certified or licensed to receive cancellation benefits. However, the employing school must consider the borrower to be a full-time professional for the purposes of salary, tenure, retirement benefits, and so on. In other words, to qualify, the borrower should accrue the same benefits as teachers who are licensed and/or certified.

A supervisor, administrator, researcher, or curriculum specialist is not a teacher unless he or she primarily provides direct and personal educational services to students.

Under certain conditions, a teacher's aide may be considered eligible for teacher cancellation. The teacher's aide must meet the definition of a "full-time teacher." He or she must have a bachelor's degree and be a professional recognized by the state as a full-time employee rendering direct and personal services in carrying out the instructional program of an elementary or secondary school.

Volunteer teachers are not professionally employed on a full-time basis and, therefore, are not eligible for teacher cancellation benefits.

Teaching full-time for a full academic year

The borrower must teach full-time for a full academic year or its equivalent. There is no requirement that a teacher must teach a given number of hours a day to qualify as a full-time teacher; the employing school is responsible for determining whether or not the individual is considered to be a full-time teacher.

An "academic year or its equivalent" for teacher cancellation purposes is defined as one complete school year. Two half-years count as an academic year if they are complete, consecutive, from different school years (excluding summer session), and generally fall within a 12-month period.

A borrower who cannot complete the academic year because of illness or pregnancy may still qualify for cancellation if he or she has completed the first half of the academic year and has begun teaching the second half, but the borrower's employer must consider the borrower to have fulfilled his or her contract for the academic year.

Teaching part-time at multiple schools

Schools must grant cancellation to a borrower who is simultaneously teaching part-time in 2 or more schools *if* an official at one of the schools where the borrower taught certifies that the borrower taught full-time for a full academic year. For example:

- under a consortium agreement, a borrower may be employed by the consortium and teach at member schools;
- two or more schools, by mutual agreement, could arrange to have one school employ the borrower on a full-time

basis and then hire out his or her services to the other school(s) involved in the agreement; or

- a borrower can be considered to have been a full-time teacher for an academic year if he or she can obtain appropriate certifications that he or she has taught in two half-time teaching positions for a complete academic year in two elementary or secondary schools or in two secondary schools.

A school may refuse cancellation for simultaneous teaching in two or more schools if it cannot easily determine that the teaching was full-time.

Teaching in a private school

A borrower may receive teacher cancellation for services performed in a private elementary or secondary school or academy, if the private school or academy has established its nonprofit status with the Internal Revenue Service (IRS) and if the school or academy is providing elementary or secondary education according to state law. The school or academy does not necessarily need to be accredited for a borrower teaching there to qualify for teacher cancellation.

Teaching in a preschool or prekindergarten program

A borrower may receive teacher cancellation for teaching service performed in a preschool or prekindergarten program the state considers the program to be a part of its elementary education program. A low-income-school-directory designation that includes prekindergarten or kindergarten does not suffice for a state determination of program eligibility. The school must check with the state superintendent of public instruction to determine whether these programs are part of the state elementary education program.

Teaching both children and adults

If the borrower teaches both children and adults, the majority of students must be children for the borrower to qualify for cancellation.

Low-income school directory

The Department maintains a *Teacher Cancellation Low-Income Directory* of elementary/secondary schools and educational service agencies providing services to low-income students, in consultation with each state's educational agency. The Department considers a school to be a low-income school only if:

- it is in a school district that qualifies for federal funding based on the large number of low-income families in the district; and
- more than 30% of the school's enrollment is made up of children from low-income families.

Information about the compilation and publication of the directory is available from the Campus-Based Call Center at: 1-877-801-7168 or Pamela Wills (pamela.wills@ed.gov).

certified, or registered by the appropriate state education agency for that area in which he or she is providing related special educational services.

Cancellation for teaching in a teacher shortage field

A school must cancel up to 100% of the outstanding balance on a borrower's Perkins loan for a full-time teacher in a field of expertise that is determined by a state education agency to have a shortage of qualified teachers in that state. A borrower who is teaching in science, mathematics, foreign language, or bilingual education qualifies for cancellation even if the state has not designated the subject area in which he or she is teaching as a shortage area.

For a borrower to be considered as teaching in a field of expertise that has been identified by a state education agency to have a shortage of teachers, the majority of classes taught must be in that field of expertise.

Low-income educational service agency

A teacher in a designated low-income elementary or secondary school who is employed by an educational service agency may qualify for a teacher cancellation. In addition, a teacher in a designated low-income elementary school, secondary school, or location operated by an educational service agency may qualify for a teacher cancellation.

An “educational service agency” is a regional public multi-service agency authorized by State law to develop, manage, and provide services or programs to local educational agencies. The Department will determine whether a school or location operated by an educational service agency is low-income pursuant to regulations of the Department and after consultation with the State education agency.

Educational service agency

Definition

The term “educational service agency” has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

NEW

HEOA section 481

HEA sections 481(e) and (f)

PUBLIC SERVICE CANCELLATIONS

NEW

Cancellation cites

Nurse or medical technician
34 CFR 674.56(a)

Child or family services agency
34 CFR 674.56(b)
GEN-05-15
Sec. 465(a)(2)(l) of the HEA

New cancellation provisions in HEOA

NEW

- Cancellation for firefighters, Tribal College/ University faculty, librarians and speech-language pathologists at Title I-funded schools.
 - Expansion of eligibility for Teacher, Head Start, and Law Enforcement cancellations
 - Increase in military service cancellation amounts
- HEOA section 465
HEA section 465(a)
Effective August 14, 2008

New cancellations for public service

Schools may now cancel loans for borrowers who are

- full-time fire fighters with a local, State, or Federal fire department or fire district,
- full-time faculty members at a Tribal College or University,
- librarians with a master's degree in library science who are employed in an elementary or secondary school that qualifies for Title I funding, or in a public library that serves a geographic area that includes one or more Title I schools, and
- full-time speech-language pathologists with a master's degree who are working exclusively with Title I-eligible schools.

Cancellations are for eligible service that includes August 14, 2008, or begins on or after that date, regardless of whether the cancellation category appears on the borrower's promissory note.

Nurse or Medical Technician Cancellation

Schools must cancel up to 100% of a Perkins Loan if the borrower has served full-time as a *nurse* or *medical technician* providing health care services. The borrower must provide health care services *directly* to patients. (See definitions at the end of this chapter and Dear Colleague Letter CB-08014.)

Child or Family Services Cancellation

Schools must cancel up to 100% of a Perkins Loan if the borrower has served full-time as an employee of an eligible public or private nonprofit child or family service agency and has directly and exclusively provided services to *high-risk children* who are from *low-income communities* or has supervised the provision of such services.

To receive loan cancellation for being employed at a child or family service agency, a borrower employed in a non-supervisory capacity must be providing services only to high-risk children who are from low-income communities. The borrower must provide services directly and exclusively to high-risk children from low-income communities. The borrower may also be providing services to adults, but these adults must be members of the families of the children for whom services are provided, and the services provided to adults must be secondary to the services provided to the high-risk children.

The types of services a borrower may provide to qualify for a child or family service cancellation include child care and child development services, health, mental health and psychological services, as well as social services. The Department has determined that an elementary or secondary school system or a hospital is not an eligible employing agency. When reviewing child or family service cancellation requests, Perkins schools and their servicers should refer to Dear Colleague Letter GEN-5-15, which provides a more detailed discussion of the eligibility requirements for child or family service cancellations.

Early Intervention cancellation

Schools must cancel up to 100% of a Perkins Loan if the borrower has been employed full-time as a *qualified professional provider of early intervention services* in a public or other nonprofit program under public supervision.

Prekindergarten, childcare, Head Start cancellation

Schools must cancel up to 100% of a Perkins Loan if the borrower has served full-time as a staff member in a prekindergarten or childcare program, or in the educational part of a preschool program carried out under the Head Start Act.

A full-time staff member is someone who is regularly employed in a full-time professional capacity to carry out the educational part of a Head Start Program. The program must operate for a full academic year, or its equivalent, and the borrower's salary may not be more than that of a comparable employee working in the local educational agency. An authorized official of the Head Start Program must sign the borrower's cancellation form to certify the borrower's service.

The cancellation rate is 15% of the original principal loan amount—plus the interest that accrued during the year—for each complete school year.

Law enforcement, corrections officer, public defender cancellation

Schools must cancel up to 100% of a Perkins Loan if the borrower has served full-time as a qualifying law enforcement, corrections officer, or attorney employed in Federal Public Defender Organizations or Community Defender Organizations (see sidebar).

To establish the eligibility of a borrower for the law enforcement or corrections officer cancellation provision, the school must determine that (1) the borrower's employing agency is eligible and that (2) the borrower's position is essential to the agency's primary mission.

A local, state, or federal agency is an eligible employing agency if it is publicly funded and its activities pertain to crime prevention, control, or reduction, or to the enforcement of the criminal law. Such activities include, but are not limited to

- police efforts to prevent, control, or reduce crime or to apprehend criminals;
- activities of courts and related agencies having criminal jurisdiction;
- activities of corrections, probation, or parole authorities; and
- the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

Agencies that are primarily responsible for enforcement of civil, regulatory, or administrative laws are ineligible. However, because the activities of many divisions and bureaus within local, state, and

Reg citations

Early intervention 34 CFR 674.56(c)
Law enforcement 34 CFR 674.57
Head Start 34 CFR 674.58
Military service 34 CFR 674.59
Volunteer service 34 CFR 674.60

Cancellation reimbursement
34 CFR 674.63(b)
DCL CB-06-07

Early childhood education program cancellation

NEW

Proposed regulations for Perkins would expand the Head Start cancellation to cover qualifying early childhood education programs.

See Federal Register for July 28, 2009

Public Defender cancellation

NEW

The law enforcement/corrections officer cancellation has been expanded to include full-time attorneys employed in Federal Public Defender Organizations or Community Defender Organizations, established in accordance with Section 3006A(g)(2) of Title 18, U.S.C.

Cancellations are for eligible service that includes August 14, 2008, or begins on or after that date, regardless of whether information on the expansion of the cancellation category appears on the borrower's promissory note.

Change to military service cancellation limitation

The HEOA removes the 50% limitation on military service cancellations. Borrowers may now receive military service cancellation of up to 100% percent of the loan.

Effective date: August 14, 2008

HEOA 465

HEA 465(a)

Cancellations for Defense Loans

Borrowers of Defense Loans are eligible for additional teaching cancellations.

See 34 CFR 674.55.

Armed forces in areas of hostilities/imminent danger area

The Department of Defense maintains an updated listing of hostile fire/imminent danger pay areas at the following URL:

www.dod.mil/comptroller/fmr/07a/index.html

Eligibility for special pay for service in an *area of hostilities* or an *area of imminent danger* is defined in Section 310 of Title 37 of the U.S. Code.

The “U.S. armed forces” are the United States Army, Navy, Air Force, Marine Corps, or Coast Guard.

NOTE: for Defense Loan cancellation, the service does not have to be in an area of hostilities or area of imminent danger.

The Department of Defense does not prorate or reduce a hostile fire/imminent danger pay area payment if the service in the hostile fire/imminent danger pay area is for a period of time less than a full month. If a member of the U.S. Armed forces is on active duty in a hostile fire/imminent danger pay area for any part of a month, the service member qualifies for the full payment of hostile fire/imminent danger pay for that month.

federal agencies pertain to crime prevention, control, or reduction, or to the enforcement of criminal law, a sub-unit within a larger, non-law enforcement agency may qualify as a law enforcement agency for purposes of a law enforcement cancellation.

For the borrower’s position to be considered essential to the agency’s primary mission, he or she must be a full-time employee of an eligible agency and a sworn law enforcement or corrections officer or person whose principal responsibilities are unique to the criminal justice system and are essential in the performance of the agency’s primary mission. The agency must be able to document the employee’s functions.

Prosecuting attorneys whose primary responsibilities are to prosecute criminal cases on behalf of public law enforcement agencies are eligible for cancellation benefits. Full-time attorneys employed in Federal Public Defender Organizations or Community Defender Organizations, are now also eligible.

Individuals whose official responsibilities are supportive, such as those that involve typing, filing, accounting, office procedures, purchasing, stock control, food service, transportation, or building, equipment, or grounds maintenance are not eligible for the law enforcement or correction officer loan cancellation, regardless of where these functions are performed.

Military service cancellation for active duty

Schools must cancel up to 100% of a Perkins Loan if the borrower is serving or has served a period of full-time active duty in the U.S. armed forces in an *area of hostilities* or an *area of imminent danger* that qualifies for special pay (see sidebar). The borrower’s commanding officer must certify the borrower’s service dates.

Effective August 14, 2008, the cancellation rates are:

NEW

- 15% for the first and second years of service,
- 20% for the third and fourth years of service, and
- 30% for the fifth year of service.

Service for less than a complete year or a fraction of a year beyond a complete year does not qualify. A complete year of service is 12 consecutive months. If a borrower is on active duty in a hostile fire/imminent danger pay area for any part of a month, that month counts towards the borrower’s eligibility for a military cancellation.

Volunteer Service Cancellation

Schools must cancel up to 70% of a Perkins Loan if the borrower has served as a Peace Corps or AmeriCorps*VISTA (under Title I, Part A of the Domestic Volunteer Service Act of 1973) volunteer. An authorized official of the Peace Corps or AmeriCorps*VISTA program must sign the borrower's cancellation form to certify the borrower's service.

Americorps volunteers do not qualify for this cancellation unless their volunteer service is with AmeriCorps*VISTA. An AmeriCorps*VISTA volunteer may only qualify for this cancellation if the AmeriCorps*VISTA volunteer elects not to receive a national service education award for his or her volunteer service. The AmeriCorps*VISTA volunteer must provide appropriate documentation showing that the volunteer has declined the Americorps national service education award.

Schools apply cancellation for volunteer service in the following increments:

- 15% of the original principal loan amount—plus any interest that accrued during the year—for each of the first and second 12-month periods of service; and
- 20% of the original principal loan amount—plus any interest that accrued during the year—for each of the third and fourth 12-month periods of service.

U.S. Army loan repayment program

It is useful to know that the U.S. Army offers a loan repayment program as an enlistment incentive. If a Perkins Loan (or Stafford Loan) borrower serves as an enlisted person in the U.S. Army, in the Army Reserves, or in the Army National Guard, the U.S. Department of Defense will repay a portion of the loan. For more information, the student should contact his or her local military recruiting office. This is a recruitment program, not a cancellation, and does not pertain to an individual's prior Army service.

DEFINITIONS

The following are definitions of terms used in this chapter (from 34 CFR 674.51):

Children and youth with disabilities. Children and youth from ages 3 through 21, inclusive, who require special education and related services because they have disabilities as defined in Section 602(3) of the Individuals with Disabilities Education Act (the Act).

The Act defines a “child with a disability” as one (1) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and (2) who, by reason thereof, needs special education and related services.

For a child age 3 through 9, the term a “child with a disability” may include, at the discretion of a state and the local education agency, individuals (1) experiencing developmental delays, as defined by the state and as measured by appropriate instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and (2) who, by reason thereof, require special education and related services.

Early intervention services. Those services defined in Section 632(4) of the Individuals with Disabilities Education Act that are provided to infants and toddlers with disabilities.

High-risk children. Individuals under the age of 21 who are low-income or at risk of abuse or neglect, have been abused or neglected, have serious emotional, mental, or behavioral disturbances, reside in placements outside their homes, or are involved in the juvenile justice system.

Infants and toddlers with disabilities. Infants and toddlers under age 3, inclusive, who need early intervention services for specified reasons, as defined in Section 632(5)(A) of the Individuals with Disabilities Education Act.

The Act defines an infant or toddler with a disability as an individual under 3 years of age who needs early intervention services because the individual (1) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or (2) has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay.

The term **infants and toddlers with disabilities** may also include, at a state’s discretion, individuals under age 3, who are at risk of having substantial developmental delays if early intervention services are not provided.

Low-income communities. Communities in which there is a high concentration of children eligible to be counted under Title I of the Elementary and Secondary Education Act of 1965, as amended.

Medical Technician. An allied health professional (working in fields such as therapy, dental hygiene, medical technology, or nutrition) who is certified, registered, or licensed by the appropriate state agency in the state in which he or she provides health care services; an allied health professional is someone who assists, facilitates, or complements the work of physicians and other specialists in the health care system.

Nurse. A licensed practical nurse, a registered nurse, or other individual who is licensed by the appropriate state agency to provide nursing services.

Qualified professional provider of early intervention services. A provider of services, as defined in Section 632 of the Individuals with Disabilities Education Act.

Section 632 of that Act defines early intervention services as developmental services that:

- are provided under public supervision;
- are provided at no cost except where federal or state law provides for a system of payments by families, including a schedule of sliding fees;
- are designed to meet the developmental needs of an infant or toddler with a disability in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development;
- meet the standards of the state in which they are provided;
- are provided by qualified personnel, including: special educators; speech and language pathologists and audiologists; occupational therapists; physical therapists; psychologists; social workers; nurses; nutritionists; family therapists; orientation and mobility specialists; and pediatricians and other physicians;
- to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and
- are provided in conformity with an individualized family service plan adopted in accordance with Section 636 of the Individuals with Disabilities Education Act.

Under the Individuals with Disabilities Education Act, early intervention services include: family training, counseling, and home visits; special instruction; speech-language pathology and audiology services; occupational therapy; physical therapy; psychological services; service coordination services; medical services only for diagnostic or evaluation purposes; early identification, screening, and assessment services; health services necessary to enable the infant or toddler to benefit from the other early intervention services; social work services; vision services; assistive technology devices and services; and transportation and related costs necessary to enable infants, toddlers, and their families to receive other services identified in Section 632(4).

Teaching in a field of expertise. The majority of classes taught are in the borrower’s field of expertise.

PROPOSED PERKINS CANCELLATION DEFINITIONS NEW

The following are proposed definitions of key terms used in this chapter from 34 CFR 674.56 (Employment cancellation--Federal Perkins, NDSL and Defense loans) to incorporate the new public service employment cancellations reflected in amended section 465(a) of the HEA.

The following definitions were included in a Notice of Proposed Rulemaking published in the Federal Register on July 28, 2009. Final regulations governing the new Perkins cancellations will be published in the Oct., 2009 Federal Register. Schools may use these definitions as guidelines for making determinations of eligibility for the new Perkins cancellation categories prior to the publication of the final regulations.

Child care program. [674.58(c)(3)]. A child care program would be defined as a program that is licensed and regulated by the State and provides child care services for fewer than 24 hours per day per child, unless care in excess of 24 consecutive hours is needed due to the nature of the parents' work (see proposed § 674.58(c)(3)).

Community defender organization. A defender organization established in accordance with section 3006A(g)(2)(B) of title 18, United States Code.[674.51(e)]

Educational service agency. A regional public multi-service agency authorized by State law to develop, manage, and provide services or programs to local educational agencies as defined in section 9101 of the Elementary and Secondary Education Act of 1965, as amended.

Faculty member at a Tribal College or University. An educator or tenured individual who is employed by a Tribal College or University, as that term is defined in section 316 of the HEA, to teach, research, or perform administrative functions. For purposes of this definition an educator may be an instructor, lecturer, lab faculty, assistant professor, associate professor, full professor, dean, or academic department head. [674.51(i)]

Federal public defender organization. A defender organization established in accordance with section 3006A(g)(2)(A) of title 18, United States Code.

Firefighter. A firefighter is an individual who is employed by a Federal, State, or local firefighting agency to extinguish destructive fires; or provide firefighting related services such as--

- (1) Providing community disaster support and, as a first responder, providing emergency medical services;
- (2) Conducting search and rescue; or
- (3) Providing hazardous materials mitigation (HAZMAT).

Librarian with a master's degree. A librarian with a master's degree is an information professional trained in library or information science who has obtained a postgraduate academic degree in library science awarded after the completion of an academic program of up to six years in duration, excluding a doctorate or professional degree.

Pre-Kindergarten program. [674.58(c)(2)] A prekindergarten program would be defined as a State-funded program that serves children from birth through age six and addresses the children's cognitive (including language, early literacy, and early mathematics), social, emotional, and physical development (see proposed § 674.58(c)(2)).

Speech language pathologist with a master's degree. An individual who evaluates or treats disorders that affect a person's speech, language, cognition, voice, swallowing and the rehabilitative or corrective treatment of physical or cognitive deficits/disorders resulting in difficulty with communication, swallowing, or both and has obtained a postgraduate academic degree awarded after the completion of an academic program of up to six years in duration, excluding a doctorate or professional degree.

Tribal College or University. A Tribal College or University is an institution that qualifies for funding under the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 et seq.), or the Navajo Community College Assistance Act of 1978 (25 U.S.C. 640a note), or is cited in section 532 of the Equity in Education Land Grant Status Act of 1994 (7 U.S.C. 301 note) (see proposed § 674.51(bb)).

Total and Permanent Disability loan discharge

34 CFR 674.61
GEN 06-14

For additional information on assigning loans for discharge contact:

Disability Discharge Loan Servicing Center

Phone: 1-888-869-4169
TDD: 1-888-636-6401
e-mail: disability_discharge@afsa.com

VA disability discharge

Borrowers who receive a permanent total disability rating from the Secretary of Veterans Affairs due to a service-connected condition will be considered permanently and totally disabled. See CB 09-04

Deceased student & family estate

NEW

The HEOA provides that a deceased student, a deceased student's estate, or the estate of such student's family does not have to repay any Federal Student Aid, including interest, collection costs and other charges.

HEOA section 486 HEA section 484A
Effective date: August 14, 2008

Discharge due to inability to engage in gainful activity

NEW

Effective July 1, 2010, the HEOA provides for a discharge of a borrower's Perkins Loan if the borrower is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that

- can be expected to result in death;
- has lasted for a continuous period of not less than 60 months; or
- can be expected to last for a continuous period of not less than 60 months.

In addition, a borrower who is determined by the VA to be unemployable due to a service-connected disability also qualifies for a discharge on his or her Perkins Loan.

The Department will issue additional guidance to Perkins loan holders describing the procedures for discharging these loans after working with the VA to identify the appropriate documentation to support a borrower's eligibility for the discharge.

DISCHARGING PERKINS LOANS

Discharge due to Death or Total and Permanent Disability

You must discharge the remaining balance of any Perkins Loan, NDSL, or Defense Loan if the borrower dies or becomes totally and permanently disabled. Total and permanent disability is the inability to work and earn money because of an injury or illness that is expected to continue indefinitely or to result in death. Your school does not receive reimbursement for discharges due to death or disability.

You must base your determination of death of the borrower on an original or certified copy of the death certificate, or an accurate and complete photocopy of the death certificate. Under exceptional circumstances and on a case-by-case basis, your school's chief financial officer may approve a discharge based upon other reliable documentation supporting the discharge request.

The borrower must submit a completed total and permanent disability (TPD) discharge request application to your school within 90 days of the date the physician signs the TPD application. The 90 day submission deadline applies to the initial TPD application; should your school's evaluation result in requests for additional supporting documentation, this does not break the 90 day deadline. By signing the TPD form, the physician certifies that the borrower is totally and permanently disabled, as defined in the Perkins Loan Program regulations.

If your school determines, based on certification from the borrower's physician, that the borrower is totally and permanently disabled, your school must assign the account to the Department. You must notify the borrower that you have assigned the account to the Department for determination of eligibility for a total and permanent disability discharge. If the Department makes an initial determination that the borrower is eligible for discharge, the Department will place the loan in a conditional discharge status for up to 3 years after the date the borrower's TPD application is certified.

A borrower does not qualify for final discharge if he or she has a loan awarded after the date the TPD certification is certified. If a borrower receives a disbursement of a Title IV loan awarded prior to the date the TPD application was certified, the borrower must cancel or repay the disbursement within 120 days of the disbursement date in order to retain eligibility for final TPD discharge.

A borrower may receive income from employment during the conditional discharge period, as long as the earnings do not exceed 100% of the poverty line for a family of two. A borrower loses eligibility for final discharge if he or she has employment earnings over this limit.

A loan placed in conditional discharge status is not considered past due or in default unless the loan was past due or in default at the time the conditional discharge was granted.

If your school receives payments from a borrower on a loan that is in conditional discharge status, you must forward these payments to the Department and notify the borrower that there is no need to make payments on the loan while it is in conditional discharge status.

- For applications processed under the new regulations (received on or after July 1, 2008), loan holders must inform the Department of the amount of any payments received after the date the physician signed the application.
- For applications processed under the old regulations (received before July 1, 2008), loan holders must inform the Department of the amount of payments received after the date provided in Section 3, line 3b of the application.

If the Department grants final discharge to the borrower, your school must refund any payments received after the date the physician signed the discharge application. (For applications received prior to July 1, 2008, your school must refund any payments received after the date provided in Section 3, line 3b of the application.)

Closed School Discharge

Your school must assign to Federal Student Aid (FSA) Collections all its outstanding Perkins and NDSL loans if it is closing (see Chapter 1 of this volume for assignment procedures).

FSA Collections may discharge a Perkins Loan or NDSL made on or after January 1, 1986 if the borrower is unable to complete his or her program of study due to the closure of the school. FSA Collections must reimburse borrowers for payments made voluntarily or by forced collection.

A borrower whose loan was in default and then discharged under this provision is not considered to have been in default and reestablishes FSA eligibility, provided he or she meets all other eligibility criteria. FSA Collections reports the discharge to the credit bureaus to which the previous loan status was reported.

Bankruptcy Discharge

The basic actions a school must take when a borrower files for bankruptcy protection are covered here, in Dear Colleague Letter GEN-95-40, dated September 1995, and in 34 CFR 674.49. For the best advice on how to proceed when a borrower files for bankruptcy protection, a school should consult its attorney. The school should ensure that the attorney is aware of the due diligence provisions that apply to school actions.

If a school receives notice that a borrower has filed for bankruptcy protection, it must immediately stop collection efforts (outside the bankruptcy proceeding itself). If the borrower has filed under Chapter 12 or 13 of the Bankruptcy Code, the school must also suspend collection efforts against any endorser.

Disability discharges received on or after July 1, 2008

NEW

For all applications for disability discharge received by the loan holder on or after July 1, 2008 on the current loan discharge application, the following fields no longer need to be completed:

1. Section 3 (Physician's Certification), Line 2 (When did the borrower's medical condition begin?); and

2. Section 3 (Physician's Certification), Line 3b (If Yes, when did the borrower become unable to work and earn money in any capacity?)

The Department will not reject an assignment due to either of these fields being missed or incomplete, as long as the application was received by the loan holder on or after July 1, 2008.

Earlier disability loan discharges

If the borrower's TPD application receipt date is on or after July 1, 2008, you must use the TPD guidance in the 2008–2009 edition of the FSA Handbook.

If the borrower's TPD application receipt date is before July 1, 2008, you must use the TPD guidance published in the *2007–2008 FSA Handbook*.

For more information, see the July 9, 2008 Electronic Announcement posted on IFAP.

Closed schools

You can find a searchable database of closed schools online at

<http://wdcrobcolp01.ed.gov/CFAPPS/FSA/closedschool/searchpage.cfm>

Closed school discharge cite
34 CFR 674.33(g)

Bankruptcy laws

11 U.S.C. 1307, 1325, and 1328(b) are laws applicable to bankruptcy cases in general, not just to Perkins Loan bankruptcy cases.

11 U.S.C. 1307 concerns the dismissal of a Chapter 13 case or the conversion of a case filed under Chapter 13 to a Chapter 7 proceeding.

11 U.S.C. 1325 concerns the confirmation by the court of a borrower's proposed repayment plan.

11 U.S.C. 1328(b) allows a debtor who fails to complete the payments required under the plan to obtain a discharge if conditions are met. A school should consult an attorney for the best advice in bankruptcy cases.

The school must file a proof of claim in the bankruptcy proceeding unless, in the case of a proceeding under Chapter 7 of the Bankruptcy Code, the notice of meeting of creditors states the borrower has no assets.

Effective for bankruptcies filed on or after October 8, 1998, a borrower who receives a general discharge in bankruptcy does not by that order obtain a discharge of a loan that has been in repayment for 7 years or more at the time of the bankruptcy filing. For these bankruptcies, a student loan is discharged by a general discharge order only if the borrower also obtains a court ruling that repayment of the loan would impose an undue hardship on the borrower and his or her dependents.

Bankruptcy and student eligibility

See Volume 1 of the *FSA Handbook* for a discussion of how bankruptcy affects a student's eligibility for aid.

9-11 public service discharge

The Third Higher Education Extension Act of 2006 (THEAA) authorized the discharge of the outstanding balance of a Perkins Loan made to the spouse of an eligible public servant.

September 11 Perkins Discharge application
GEN-07-08

Discharge for spouses of 9-11 victims

Schools must discharge the outstanding balance of a Perkins Loan that was made to the spouse of an eligible public servant who died or became permanently and totally disabled due to injuries suffered in the September 11, 2001 terrorist attacks. An eligible public servant is a police officer, firefighter, or other safety or rescue personnel, or a member of the Armed Forces, who died or became permanently and totally disabled due to injuries suffered in the September 11, 2001 terrorist attacks. This discharge is only available on Perkins, NDSL, or Defense Loan amounts that were owed on September 11, 2001. The law doesn't authorize refunding of any payments made on a loan prior to the loan discharge date.

Bankruptcy procedures

Responding to complaint for determination of dischargeability

Customarily, a borrower obtains a judicial ruling of undue hardship by filing an adversary proceeding—a lawsuit within the bankruptcy proceeding—in the bankruptcy court seeking to prove undue hardship. If a borrower files an adversary proceeding to prove undue hardship under 11 U.S.C. 523(a)(8), the school must decide, on the basis of reasonably available information, whether repayment under the current repayment schedule or under any adjusted schedule would impose undue hardship on the borrower and his or her dependents.

If the school concludes that repayment would not impose an undue hardship, the school must then decide whether the expected costs of opposing the discharge would exceed one-third of the total amount owed on the loan (principal, interest, late charges, and collection costs). If the expected costs do not exceed one-third of the total amount owed on the loan, the school must oppose the discharge and, if the borrower is in default, seek a judgment for the amount owed. If necessary, the school may compromise a portion of that amount to obtain a judgment.

If the school opposes a request for determination of dischargeability on the ground of undue hardship, a school may also file a complaint with the court to obtain a determination that the loan is not dischargeable and to obtain a judgment on the loan.

Schools that are state instrumentalities may, as an alternative, oppose an undue hardship claim by asserting their immunity from suit in bankruptcy. As with any other action in defending student loans in bankruptcy, the school should consult with counsel and should ensure that counsel is fully informed about recent changes in Department regulations to support this position.

Procedures for responding to proposed Chapter 13 repayment plan

Under Chapter 13, the borrower may generally obtain an adjustment in repayment terms of all of his/her debts. The borrower proposes a repayment plan that addresses whether and how each debt or class of debts will be paid. If the court approves the plan, creditors are bound to the terms of that plan for duration of the plan, typically 3 to 5 years. If the borrower's repayment plan proposes full repayment of the Perkins Loan, including all principal, interest, late charges, and collection costs on the loan, no response from the school is required. The school is also not required to respond to a proposed repayment plan that does not include any provision in regard to the Perkins Loan obligation or to general unsecured claims.

If the borrower proposes to repay less than the total amount owed and that the remainder be discharged, the school must determine, from its own records and court documents, the amount of the loan dischargeable under the plan. The school does this by subtracting the total proposed payments from the total amount owed. The school must also determine from its own records and court documents whether the borrower's proposed repayment plan meets the requirements of 11 U.S.C. 1325. Two of those requirements are particularly relevant:

- First, the amount to be paid under the plan must at least equal the amount the school would receive if the debtor had filed under Chapter 7 rather than under Chapter 13.
- Second, to pay creditors under the plan, the debtor must use all income not needed to support himself or herself and his or her dependents.

If the borrower's proposed repayment plan does not meet the requirements of 11 U.S.C. 1325, the school must object to the confirmation by the court of the proposed plan, unless the cost of this action will exceed one-third of the dischargeable loan debt; if the cost will exceed one-third of the dischargeable debt, the school is not required to take this action.

Also, when a borrower proposes to repay less than the total amount owed, the school must determine whether grounds exist under 11 U.S.C. 1307 for the school to move to have the Chapter 13 case either dismissed or converted to a Chapter 7 proceeding. Such grounds include a borrower's failure to (1) begin payments under the plan within the required time (usually 30 days from the date the plan is filed), (2) file a proposed plan in a timely manner, or (3) pay required court fees and charges. If the school determines that such grounds do exist, the school must move to dismiss or convert the Chapter 13 case to a Chapter 7 proceeding, unless the cost of this action will exceed one-third of the dischargeable loan debt.

After a borrower's proposed repayment plan is confirmed by the court, the school must monitor the borrower's compliance with the repayment plan. If the school determines from its own records or court documents that the borrower either has not made the payments required under the plan or has filed for a hardship discharge under 11 U.S.C. 1328(b), the school must determine whether grounds exist under 11 U.S.C. 1307 to dismiss the case filed under Chapter 13 or to convert the Chapter 13 case to a Chapter 7 proceeding or whether the borrower is entitled to a hardship discharge. If grounds do exist under 11 U.S.C. 1307 to dismiss or convert a Chapter 13 case, the school must move to convert or dismiss the case. If a borrower has not demonstrated entitlement to a hardship discharge under 11 U.S.C. 1328(b), the school must oppose the hardship discharge request, unless the costs of these actions, when added to those already incurred, would exceed one-third of the dischargeable debt.

Resuming/terminating billing and collection

A school must resume billing and collection procedures after the borrower has received a discharge under 11 U.S.C. 727, 11 U.S.C. 1141, 11 U.S.C. 1228, 11 U.S.C. 1328(a), or U.S.C. 1328(b) unless the court has found that repayment would impose an undue hardship. If the court has found that repayment would impose an undue hardship, the school must terminate all collection action and write off the loan. If a school receives a repayment from a borrower after a loan has been discharged, it must deposit that payment in its Perkins Loan Fund.

Bankruptcies filed before October 8, 1998

See previous editions of the *FSA Handbook* for discussion of bankruptcies filed before October 8, 1998.

Perkins Billing, Collection, and Default

When a Perkins Loan enters repayment, your school must follow the Due Diligence requirements of Subpart C of the Perkins regulation (34 CFR 674.41-50). You must afford the borrower maximum opportunity to repay a Federal Perkins Loan. Specific steps the school must take include (but are not limited to) billing the borrower, sending overdue notices, and conducting address searches if the borrower cannot be located. If billing procedures fail, a school must take more aggressive collection steps such as hiring a collection firm and/or litigating. Default in the Federal Perkins Loan Program is defined as “the failure of a borrower to make an installment payment when due or to comply with other terms of the promissory note or written repayment agreement.”

COMMUNICATION WITH BORROWER

While billing and collection activities involve many steps, there are general requirements that your school must adhere to at all times. You must inform the borrower of all program changes that affect his or her rights and responsibilities. Your school must respond promptly to the borrower’s inquiries. If a borrower disputes a loan and you cannot resolve the dispute, you must explain the services provided by the Department’s Federal Student Aid (FSA) Ombudsman’s office.

Keeping current information on a borrower makes it easier for the school to know when repayment must begin and where to send billing notices. The various offices at the school—the admissions, business, alumni, placement, financial aid, and registrar’s offices, and others, as necessary—must provide any available information about the borrower that is relevant to loan repayment, including:

- the borrower’s current enrollment status;
- the borrower’s expected graduation or termination date;
- the date the borrower officially withdraws, drops below half-time enrollment, or is expelled; and
- the borrower’s current name, address, telephone number, Social Security number, and driver’s license number (if any).

Chapter 6 Highlights

- Billing procedures
- Exit interviews
- Grace periods
- Overdue payments
- Acceleration
- Disclosure of repayment
- Default and collection
- Procedures
- Billing and collection costs
- Default status and eligibility
- Satisfactory repayment
- Perkins rehabilitation
- Perkins assignment
- Default reduction
- Assistance program
- Cohort default rates
- Defining and calculating

General requirements

- General
- 34 CFR 674.41(a)
- Coordination of information
- 34 CFR 674.41(b)
- Exit interview
- 34 CFR 674.42(b)
- Disclosure of repayment information
- 34 CFR 674.42(a)

For information about maintaining billing and collection records, see Chapter 1 of this volume.

Exit interviews for students enrolled in a correspondence or study-abroad program.

In the case of students enrolled in a correspondence program or a study-abroad program that your school approves for credit, you may provide written counseling materials by mail within 30 days after the borrower completes the program.

Perkins NSLDS Reporting

34 CFR 674.16

You must report enrollment and loan status information to NSLDS by the deadline date established in the Federal Register Web site

<http://www.nsls.ed.gov>

Phone number: 1 (800) 999-8219

REQUIREMENTS AT END OF ENROLLMENT

Exit Interviews

Contact with the borrower becomes even more important as the borrower's last day of attendance approaches. Your school must conduct exit counseling with borrowers either in person, by audiovisual presentation, or by interactive electronic means. (If you conduct exit counseling through interactive electronic means, you must take reasonable steps to ensure that each student borrower receives the counseling materials and participates in and completes the exit counseling.)

Schools must conduct this counseling shortly before the student graduates or drops below half-time enrollment (if known in advance). If individual interviews are not possible, group interviews are acceptable. Your school may employ third-party servicers to provide Perkins Loans borrowers with exit counseling. In the case of correspondence study, distance education, and students in the study-abroad portion of a program, you may provide written counseling materials by mail within 30 days after the borrower completes the program.

During the exit interview, the financial aid counselor must review and update all of the repayment terms and information addressed in the initial loan counseling session. (See the sidebar on the next page for a list of information included in the loan counseling session.)

The exit interview must also discuss:

- debt-management strategies that would facilitate repayment;
- the availability of FSA loan information on the National Student Loan Database System (NSLDS); and
- how to contact the FSA Ombudsman's office and an explanation of the services this office provides.

As part of the exit information, you must collect the name and address of the borrower's expected employer.

FSA Ombudsman

The Ombudsman's office is a resource for borrowers to use when other approaches to resolving student loan problems have failed. Borrowers should first attempt to resolve complaints by contacting the school, company, agency, or office directly involved. If the borrower has made a reasonable effort to resolve the problem through normal processes and has not been successful, he or she should contact the FSA Ombudsman.

Office of the Ombudsman
U.S. Dept. of Education
830 First St NE
Mailstop #5144
Washington, DC 20202-5144

Toll-free: 1 (877) 557-2575
1 (202) 377-3800
Fax: 1 (202) 275-0549
<http://fsahelp.ed.gov>

The financial aid counselor must emphasize the seriousness and importance of the repayment obligation the borrower is assuming, describing the likely consequences of default, including adverse credit reports, litigation, and referral to a collection agency. The counselor must further emphasize that the borrower is obligated to repay the full amount of the loan even if the borrower has not completed the program, is unable to obtain employment upon completion, or is otherwise dissatisfied with the school's educational or other services.

If the borrower withdraws from school without the school's prior knowledge or fails to complete an exit counseling session, the school must provide exit counseling through either interactive electronic means or by mailing counseling material to the borrower at the borrower's last known address within 30 days after learning that the borrower has withdrawn from school or failed to complete exit counseling.

Finally, schools must document all exit interviews.

Disclosure of repayment information

Either shortly before the borrower ceases at least half-time study or during the exit interview, schools must disclose critical repayment information to the borrower *in a written statement*. Most of the repayment terms that the school must disclose to the borrower already appear in the promissory note. The school must also give the borrower the following information:

- contact information for requesting a copy of the signed promissory note;
- 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 name and address of the party to which payments should be sent;
- the estimated balance owed by the borrower on the date on which the repayment period is scheduled to begin;
- the repayment schedule for all loans covered by the disclosure including the date the first installment payment is due, the rate of interest, and the number, amount, and frequency of required payments; and
- the total interest charges that the borrower will pay on the loan pursuant to the projected repayment schedule.

If your school exercises the minimum monthly payment option, you must inform the borrower that if he or she wants your school to coordinate payments with another school, he or she must request such coordination.

If a borrower enters the repayment period without the school's knowledge, the school must provide the required disclosures to the borrower in writing immediately upon discovering that the borrower has entered the repayment period.

Exit counseling requirements

The HEOA requires each eligible institution, through financial aid offices or otherwise, to conduct exit counseling for borrowers receiving loans made through the Federal Perkins Loan program.

The counseling must include:

- information on repayment plans which includes a description of the different features of each plan and samples showing average anticipated monthly payments with the difference in interest paid and total payments shown with each plan;
- debt management strategies to assist the borrower in repaying the debt;
- options the borrower has to prepay each loan or pay each loan on a compressed schedule or to change repayment plans;
- information on loan forgiveness and cancellation provisions and the conditions under which the borrower may obtain full or partial forgiveness or cancellation of principal and interest;
- information on forbearance provisions and a general description of terms and conditions under which the borrower may defer repayment of principal or interest or be granted forbearance;
- information on the consequences of default on a loan which includes adverse credit reports and Federal delinquent debt collection procedures and litigation;
- a general description of the types of tax benefits that might be available to borrowers; and
- information on how a borrower can use NSLDS to get information on the status of their loans.

The school must also include information with respect to Consolidation loans to discharge FFEL, Direct Loan, and Perkins Loan program loans which includes:

- the effects of the consolidation on total interest to be paid, fees, and length of repayment;
- the effect on a borrower's underlying loan benefits, which includes grace periods, loan forgiveness, cancellation and deferment;
- the option the borrower has to prepay the loan or to change repayment plans; and
- that borrower benefit programs may vary depending on the lender.

HEOA section 488(b)

HEA section 485(b)(1)(A)

Grace period contact

34 CFR 674.42(c)

Contact during grace periods

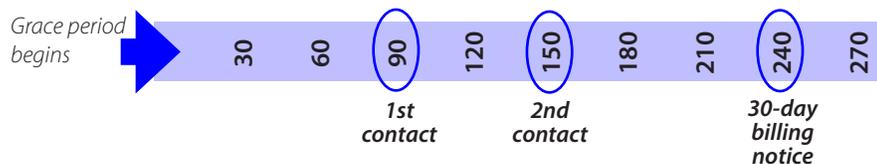
A school must contact the borrower during both initial and post-deferment grace periods to remind him/her when repayment will begin or resume.

Your school must contact the borrower 3 times during the 9-month initial grace period. The school must also contact the borrower twice during any 6-month post-deferment grace period. The chart below shows the length of initial and post-deferment grace periods for NDSLs and Perkins Loans.

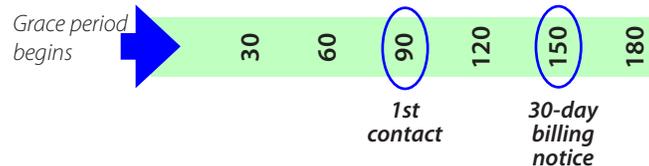
- The *first contact* must be *90 days* after any grace period (initial or post-deferment) begins. The school must remind the borrower that he or she is responsible for repaying the loan. The school must also inform the borrower of the amount of principal and interest, as projected for the life of the loan, and the due date and amount of the first (or next) payment.
- The *second contact* must be *150 days* after any grace period begins, when the school must again remind the borrower of the due date and amount of the first (or next) payment. For 6-month grace periods, the second contact should coincide with the first billing notice. These two notices may be combined.
- For 9-month grace periods, the school must make a *third contact* *240 days* after the grace period begins to remind the borrower of the date and amount of the first payment. This contact should coincide with the first billing notice. Again, the school may combine the two notices.

Contact with borrower during grace period

9-month grace period



6-month grace period



Applicable grace periods	perkins	ndsl on/after 10/1/80	ndsl before 10/1/80
initial grace period	9 months	6 months	9 months
postdeferment period	6 months	6 months	6 months

BILLING PROCEDURES AND OVERDUE PAYMENTS

Billing refers to that series of actions the school routinely performs to notify borrowers of payments due, remind them of overdue payments, and demand payment of overdue amounts.

The school may choose a coupon payment system as its method of billing. If so, the school must send the coupons to the borrower at least 30 days before the first payment is due.

If the school does not use a coupon system, it must, at least *30 days* before the first payment is due, send the borrower a statement of account and a written notice giving the name and address of the party to which payments should be sent. The statement of account includes information such as the total amount borrowed, the interest rate on the loan, and the amount of the monthly payment. For subsequent payments, the school must send the borrower a statement of account at least *15 days* before the due date of the payment.

If the borrower chooses to make payments through electronic funds transfer, the school doesn't have to send the borrower a statement of account before each payment. However, the school must send the borrower an annual statement of account.

Notices of overdue payments

If a payment is overdue and you have not received a request for forbearance, deferment, or cancellation, you must send the borrower:

- the *first* overdue notice 15 days after the payment due date;
- the *second* overdue notice 30 days after the first overdue notice;
- the *final demand letter* 15 days after the second overdue notice.

The assessment of late charges on an overdue Perkins Loan borrower is now optional. The final demand letter must inform the borrower that unless the school receives a payment or a request for forbearance, deferment, or cancellation *within 30 days* of the date of the letter, the school will refer the account for collection or litigation and will report the default to a credit bureau as required by law.

You may skip the first two letters and send just the final demand letter within *15 days* after a payment is overdue if the borrower's repayment history has been unsatisfactory or if you can reasonably conclude the borrower does not intend to repay the loan or to seek forbearance, deferment, or cancellation. A borrower is considered to have an unsatisfactory repayment history if he or she has failed to make payments when due, has failed to request deferment, forbearance, or cancellation on time, or has received a final demand letter.

Billing procedures

34 CFR 674.43

Overdue notices

34 CFR 674.43(b)

34 CFR 674.43(c)

Optional penalty or late charge for periods of enrollment beginning before 1/1/86

34 CFR 674.31(b)(5)(ii)

34 CFR 674 Appendix E

Schools are authorized but not required to assess a penalty or late charge for an overdue payment on a loan made for a period of enrollment that began before January 1, 1986. The maximum penalty charge that may be assessed on a loan payable monthly is \$1 for the first month and \$2 for each additional month a payment is overdue; the maximum penalty for a loan payable bimonthly is \$3; the maximum penalty for loans payable quarterly is \$6. Penalty or late charges on these loans may be assessed only during the billing process.

Billing procedures

- 30 days before due date
 - ▶▶ *send 30-day notice*
- Payment due date
- within 15 days after due date
 - ▶▶ *send 1st overdue notice*
- 30 days after 1st notice
 - ▶▶ *send 2nd notice*
- 15 days after 2nd notice ▶▶
 - ▶▶ *send final demand*
- within 30 days of final demand
 - ▶▶ *phone and refer for collection**
(or litigation, if necessary)

* the school can use the services of the Default Reduction Assistance Program (DRAP) before the loan goes to a collection firm, as discussed in this chapter.

Cites

- Late charges
- 34 CFR 674.43(b)(2)
- Telephone Contact
- 34 CFR 674.43(f)
- 34 CFR 675.46(a)(2)
- Loan acceleration
- 34 CFR 674.43(e)
- Address search
- 34 CFR 674.44

Contacting the endorser—loans Before July 23, 1992

For loans made prior to July 23, 1992, the school must also try to collect the amount owed from any endorser of the loan. It may help to send the endorser a copy of the final demand letter that was sent to the borrower and copies of all subsequent notices, including dunning letters. For loans made on or after July 23, 1992, an endorser is no longer required.

Late charges

A school that adopts a policy of assessing late charges on an overdue Perkins Loan must impose them on all borrowers with overdue payments. The charge is based either on the actual costs the school incurs in taking steps to obtain the overdue amount or on average costs incurred in similar attempts with other borrowers. The charge may not exceed 20% of the installment payment most recently due.

If your school assesses a late charge, it must also impose a late charge if a borrower's payment is overdue and the borrower has not filed a complete request for forbearance, deferment, or cancellation on time. (To be complete, the request must contain enough information for you to confirm the borrower's eligibility.) If a school opts to charge late fees, the school may charge late fees only during the billing process; a school may not charge late fees once the school begins collections procedures.

You may add the penalty or late charge to the principal amount of the loan as of the first day the payment was due. Alternatively, you may include the charge with the next payment that is scheduled after the date you notify the borrower that the charge must be paid in full by the next payment due date. You must inform the borrower of the late charge, preferably in the first overdue payment notice.

For a borrower who repays the full amount of past-due payments, the school may waive any late charges that were imposed.

Contacting the borrower by telephone

If the borrower does not respond to the final demand letter within 30 days, you must try to contact him or her by telephone before beginning collection procedures. As telephone contact is often very effective in getting the borrower to begin repayment, one call may avoid the more costly procedures of collection.

You should make at least two attempts to reach the borrower on different days and at different times. If the borrower has an unlisted telephone number, you must make reasonable attempts to obtain it by contacting sources such as the borrower's employer or parents. If you are still unsuccessful, you should document the contact attempts in your files.

Loan acceleration

You may *accelerate* a loan if the borrower misses a payment or does not file for deferment, forbearance, or cancellation on time. Acceleration means immediately making payable the entire outstanding balance, including interest and any applicable late charges or collection fees.

Because this marks a serious stage of default, the borrower should have one last chance to bring his or her account current. For that reason, if the school plans to accelerate the loan, it must send the

borrower a written acceleration notice at least 30 days in advance. The notice may be included in the final demand letter or in some other written notice sent to the borrower.

If the loan is accelerated, you must send the borrower another notice to inform him or her of the date the loan was accelerated and the total amount due. Remember that acceleration is an option, not a requirement. However, if you plan to assign the loan to the Department for collection, you must first accelerate the loan. Once a loan has been accelerated, the borrower loses all rights to deferment and cancellation benefits for qualifying service performed *after* the date of acceleration.

Address searches

The school must take the following steps to locate the borrower if communications are returned undelivered (other than unclaimed mail):

- review the records of all appropriate school offices and
- review printed or web-based telephone directories or check with information operators in the area of the borrower's last known address.

If these methods are unsuccessful, you must intensify efforts to locate the borrower, using either school personnel or a commercial skip-trace firm. If you use school personnel, you must employ and document efforts comparable to commercial skip-tracing firms. You may also choose to use the Internal Revenue Service skip-tracing service provided through the Department.

If you still can't locate the borrower after taking these steps, you must continue to make reasonable attempts at least twice a year until the account is assigned to the Department or the account is written off.

Default Reduction Assistance Program

To assist schools in bringing defaulted borrowers into repayment, the Department has established the Default Reduction Assistance Program (DRAP). Under DRAP, a school can request that the Department send a borrower a letter designed to warn the student of the seriousness of default. The Department provides these services at no cost to the school. Participation in DRAP is voluntary.

The new DRAP process is an entirely web-based process conducted at the new eCampus-Based website (www.cbfsap.ed.gov).

Once you have logged into the eCampus-Based website using your FSA User ID and password, select the "DRAP" link on the top navigation bar to begin.

As DRAP is intended to get the borrower back into repayment *before* the account goes to a collection firm, this service should *not* be requested once a collection agency is involved. DRAP service is usually provided during the 30-day period during which a school is awaiting response to the final demand letter.

Dear Colleague Letter CB-05-11

General questions about DRAP should be directed to the Campus-Based Call Center at 1-877-801-7168 Mon–Fri, 8 a.m. – 8 p.m. EST

Collection procedures

34 CFR 674.45
 Ombudsman information
 34 CFR 674.45(h)
 Credit bureau reporting
 34 CFR 674.45(a)(1)
 34 CFR 674.45(b)
 First effort to collect
 34 CFR 674.45(a)(2)
 Litigation or second effort
 34 CFR 674.45(c)
 Annual efforts to collect
 34 CFR 674.45(d)

DEFAULT & COLLECTION PROCEDURES

Collection procedures are the more intensive efforts a school must make when borrowers have not responded satisfactorily to billing procedures and are considered seriously in default.

As part of the following collection activities, the school must inform the borrower of the availability of the FSA Ombudsman's Office.

Credit bureau reporting

A school must report an account to credit bureaus as being in default when a borrower fails to respond to the final demand letter or the following telephone contact. You must report the default to any one national credit bureau or to an affiliated credit bureau that transmits credit information to one of the three national credit bureaus with which the Department has an agreement (see box).

You must report any subsequent changes in the status of the borrower's account to the same national credit bureau, using the procedures required by that credit bureau. You must respond within 1 month to any inquiry received from any credit bureau about reported loan information. Finally, you must notify all credit bureaus to which you reported the default when a borrower makes consecutive, on-time monthly payments.

Reporting good credit history (as well as reporting defaulted loans) is essential to ensure that current and future creditors have complete information regarding the credit obligations of the borrower.

Under the Fair Credit Reporting Act, a borrower may appeal the accuracy and validity of the information reported to the credit bureau and reflected in the credit report. You should be prepared to handle the appeal and make necessary corrections to the report as required by the provisions of the act.

Efforts to collect

The school must make a *first effort* to collect using either its own personnel or hiring a collection firm.

If the school's personnel or the collection firm cannot convert the account to regular repayment status by the end of 12 months (or if the borrower does not qualify for forbearance, deferment, or cancellation), the school has two options—either to litigate or to make a second effort to collect.

A *second effort* to collect requires one of the following procedures if:

- the school first attempted to collect by using its own personnel, it must refer the account to a collection firm unless state law prohibits doing so.
- the school first used a collection firm, it must attempt to collect by using its own personnel or by using a different collection

National Credit Bureaus

The Department has entered into an agreement with the three national credit bureaus listed below:

Trans Union Corporation	(1-800-888-4213)
Experian (formerly TRW)	(1-888-397-3742)
Equifax	(1-888-202-4025)

National credit bureaus charge fees for their services. These fees differ from credit bureau to credit bureau. Credit bureaus affiliated with the above credit bureaus may have different fees from those of the national credit bureaus. The Department does not keep a list of these affiliated bureaus and their fees.

The Privacy Act authorizes disclosure of a borrower's account information to creditors without the borrower's consent if the disclosure helps enforce the terms and conditions of the loan. You may also make such disclosures about loans that haven't defaulted and/or are being disbursed.

firm, or the school must submit the account to the Department for assignment.

- a collection firm (retained by a school as part of its second effort to collect) cannot place an account into regular repayment status by the end of 12 months (or if the borrower does not qualify for forbearance, deferment, postponement, or cancellation), the firm must return the account to the school.

If the school is unsuccessful in its effort to place the loan in repayment after following the procedures above, the school must continue to make yearly attempts to collect from the borrower until the loan is recovered through litigation; the account is assigned to the Department; or the loan is written off.

Ceasing collection

A school may cease collection activity on defaulted accounts with balances of less than \$200 (including outstanding principal, accrued interest, collection costs, and late charges) if the school carried out the required due diligence and if the account has had no activity for four years. Although interest will continue to accrue and may put the account over \$200, you will not have to resume collection activity if you document that you ceased collection activity when the account was under \$200. The borrower will remain responsible for repaying the account, including accrued interest. The account will still be included in the school's cohort default rate, if applicable, and the borrower will still be in default and ineligible for FSA funds.

Alternatives to litigation

To avoid litigation, a school may offer to waive collection costs as incentive for repayment. You may waive *all* collection costs on a loan if the borrower makes a lump-sum payment of the entire amount outstanding, including principal and interest; a written repayment agreement is not required. You may also waive a *portion* of the collection costs on a loan if the borrower agrees to pay a corresponding portion of the loan within 30 days of entering into a written repayment agreement with the school. For example, if the

IRS Skip-Tracing Program

Previous Handbooks noted that schools could use IRS Skip-Tracing services to locate Perkins borrowers (See Dear Partner Letter CB-02-16, November 2002).

However, IRS Skip-Tracing is no longer available to schools that participate in the Perkins Loan Program. See the Electronic Announcement posted on July 10, 2009.

Account write-off (\$25/\$50)

Your school may write off an account with a balance of less than \$25.00 (including outstanding principal, accrued interest, collection costs, and late charges). Your school may write off an account with a balance of less than \$50, if your school appropriately billed the borrower for at least 2 years. If you write off an account, the borrower is relieved of all payment obligations and you must deduct the amount of the account from the Perkins Loan Fund. If you receive a payment from a borrower after you have written off the loan, you must deposit that payment into the Fund.

34 CFR 674.47(h)

Ceasing collections

34 CFR 674.47(g)

Litigation

34 CFR 674.46

Consolidating Defaulted Perkins Loans

A borrower with a defaulted Perkins Loan and an outstanding FFEL should contact his or her current FFEL lender for information about obtaining a Federal Consolidation Loan. A borrower with a defaulted Perkins Loan and an outstanding Direct Loan can get information about obtaining a Direct Consolidation Loan by contacting the Direct Loan Consolidation Department at 1-800-557-7392 or by visiting the Direct Loan web site: www.direct.ed.gov.

Elimination of defense of infancy

NEW Schools in the Perkins Loan program are not subject to a defense raised by a borrower on the basis of a claim of infancy under state law. See General Provisions relating to student assistance.

Effective August, 14, 2008

HEOA Section 486:

borrower repays one-half the outstanding balance on a loan within 30 days of the agreement, the school may waive one-half of the collection costs incurred through the date of that payment. The amount of waived collection costs may be charged to the Perkins Loan Fund.

You may compromise the repayment of a defaulted loan if you have fully complied with all due diligence requirements and the borrower pays, in a single lump-sum payment, at least 90% of the outstanding principal balance, plus all interest and collection fees. The federal share of the compromise repayment must bear the same relation to the school's share as the Federal Capital Contribution (FCC) bears to the Institutional Capital Contribution (ICC).

A borrower may rehabilitate a defaulted Perkins Loan by making 12 consecutive on-time payments. A rehabilitated loan is returned to regular repayment status. (See Rehabilitation later in this chapter.)

A borrower may include his or her defaulted Perkins Loan, NDSL, or Defense Loan in a Direct or Federal Consolidation Loan. The amount eligible for consolidation under either program is the sum of the unpaid principal, accrued unpaid interest, late charges, and outstanding collection costs. A defaulted loan that is being repaid under a court order remains in default status until paid and is not eligible for consolidation.

Litigation

If the collection procedures described in this section do not result in the repayment of a loan, the school must review the account for litigation once every 2 years. If all the conditions are met, the school must litigate. The conditions are:

- the total amount owed, including outstanding principal, interest, collection costs, and late charges, on all the borrower's Perkins Loans and NDSLs at the school is more than \$500;
- the borrower can be located and served with process;
- the borrower either has enough assets attachable under state law to cover a major portion of the debt or enough income that can be garnished under state law to satisfy a major portion of the debt over a reasonable period of time (defining a "reasonable period of time" is left to the school);
- the borrower does not have a defense that will bar judgment for the school; and
- the expected cost of litigation (including attorneys' fees) does not exceed the amount that can be recovered from the borrower.

Even if all the above conditions are not met, your school may still choose to sue a defaulted borrower. If the borrower has a partial defense that may bar judgment for the school, you must weigh the costs of litigation against the costs of recovery based on the amount of the enforceable portion of the debt. No federal or state statute of

limitation can apply to enforcement actions to collect Perkins Loans or NDSLs.

Your school must attempt to recover from the borrower all litigation costs, including attorneys' fees, court costs, and other related costs, to the extent permitted by applicable state law. You are also required to try to recover all costs previously incurred in the collection of overdue payments if the borrower has not paid these collection costs; a percentage of these unrecovered costs may be charged to the Fund as explained later in this chapter under "Billing and Collection Costs."

When a school has filed suit to collect a defaulted Perkins Loan or NDSL and a judgment has been rendered on the loan, the borrower is obligated to repay only the amount of the judgment obtained on the loan. A defaulted loan that is being repaid under court order remains in default status until paid and is not eligible for consolidation. After a judgment is satisfied on the defaulted loan, the student is again eligible for future awards under these programs if all other eligibility criteria are met.

Your school may assign the account to the Department for collection if the amount outstanding is \$25 or more (including principal, interest, collection costs, and late charges) and your school cannot collect a payment after following all collection procedures (including litigation, if required). For more information about assignment of a loan, see "assignment procedures" at the end of this chapter.

Collection costs waiver

34 CFR 674.47(d)

Compromise

34 CFR 674.33(e)

Deceased student & family estate

The HEOA provides that a deceased student, a deceased student's estate, or the estate of such student's family does not have to repay any Federal Student Aid, including interest, collection costs and other charges. **NEW**

HEOA section 486

HEA section 484A

Effective date: August 14, 2008

Assessing and documenting collection costs

You may charge either actual costs incurred in collecting the borrower's loan or average costs incurred for similar actions taken to collect loans in similar stages of delinquency. Your school must assess all reasonable collection costs against the borrower despite any provisions of state law that would conflict with the above provisions.

You must document the basis for the costs assessed. For audit purposes, a school must keep documentation supporting costs, including telephone bills and receipts from collection firms.

You should provide a notice explaining to the borrower how your school calculates collection costs.

Billing & Collection

Billing and collection firms

34 CFR 674.48

Assessing costs

34 CFR 674.45(e)

Charging costs to the fund

34 CFR 674.47

Reasonable Collection Costs

34 CFR 674.45(e)(3)

For loans referred to a collection agency on or after July 1, 2008, collection costs charged the borrower may not exceed:

- first collection effort—30% of the principal, interest, and late charges collected;
- second and subsequent collection efforts—40% of the principal, interest, and late charges collected;
- for collection efforts resulting from litigation, 40% of principal, interest, and late charges collected, plus court costs.

BILLING AND COLLECTION COSTS

Your school must charge the borrower for reasonable collection costs associated with past-due payments, if your school opts to charge them (not routine billing costs, which are included in the administrative cost allowance [ACA]), and *collection* costs for address searches, use of contractors for collection of the loan, litigation, and/or bankruptcy proceedings.

If your school cannot recover billing and collection costs from the borrower, you may charge the costs to the Fund, provided the costs fall within the specifications described in the following paragraphs. (Collection costs are included in the ACA, but if collection costs exceed the ACA, you must report the additional costs in the separate collection costs category on the FISAP.)

The only *billing* costs a school may charge the Fund are the costs of telephone calls made to demand payment of overdue amounts not paid by the borrower. Even if the amount recovered from the borrower does not suffice to pay the amount of the past-due payments and the penalty or late charges, the school may charge the Fund only for the unpaid portion of the actual cost of the calls.

The following *collection* costs may be charged to the Perkins Loan Fund if the costs are *waived* or *not paid by the borrower*:

- ***Collection costs waived.*** If your school waives collection costs as incentive for repayment, the amount waived may be charged to the Fund.
- ***Cost of a successful address search.*** You may charge to the Fund a reasonable amount for the cost of a successful address search if you used a commercial skip-tracing service or employed your school's personnel to locate the borrower using comparable methods. (Defining a reasonable amount is left to the school.)
- ***Cost of reporting defaulted loans to credit bureaus.*** You may charge to the Fund the cost of reporting a defaulted loan to a credit bureau, reporting any change in the status of a defaulted account to the bureau to which the school had previously reported the account, and responding to any inquiry from a credit bureau about the status of a loan.
- ***Costs of first and second collection efforts.*** You may charge to the Fund collection costs not paid by the borrower if they do not exceed—for first collection efforts—30% of the total principal, interest, and late charges collected and—for second collection efforts—40% of the principal, interest, and late charges collected. The school must reimburse the Fund for collection costs initially charged to the Fund but subsequently paid by the borrower.
- ***Collection costs resulting from rehabilitation.*** Collection costs charged to the borrower on a rehabilitated loan may not

exceed 24% of the unpaid principal and accrued interest as of the date following application of the twelfth payment. Until July 1, 2002, if the actual collection costs exceed 24% of the unpaid principal and accrued interest, the school may charge the Fund the remaining costs. Collection costs are not restricted to 24% in the event that the borrower defaults on the rehabilitated loan.

- **Costs of firm performing both collection and litigation services.** If a collection firm agrees to perform or obtain the performance of both collection and litigation services on a loan, the amount for both functions that may be charged to the Fund may not exceed the sum of 40% of the amount of principal, interest, and late charges collected on the loan, plus court costs specified in 28 U.S.C. 1920.
- **Collection costs resulting from litigation, including attorney's fees.** Collection costs resulting from litigation, including attorney's fees, may be charged to the Fund if not paid by the borrower. (Note that there is a limit on litigation costs that may be charged—see sidebar.)

Due diligence activities involving *fixed costs* (telephone contacts, credit bureau reporting, and bankruptcy procedures) may be charged to the Fund whether or not the actions are successful. Other activities, such as address searches, collection, and litigation (other than bankruptcy), are typically performed on a *contingent-fee* basis. If these activities are *unsuccessful*, there are no costs charged to the school and therefore no costs may be charged to the Fund. If these activities are *successful*, you may charge the associated allowable costs to the Fund.

Limit on charging costs due to litigation

The amount of litigation costs a school charged to the Perkins Loan fund may not exceed the sum of:

- court costs specified in 28 U.S.C. 1920;
- other costs incurred in bankruptcy proceedings in taking actions required or authorized under 34 CFR 674.49;
- costs of other actions in bankruptcy proceedings to the extent that those costs together with other costs incurred in bankruptcy proceedings do not exceed 40% of the total amount of judgment obtained on the loan; and
- 40% of the total amount recovered from the borrower in any other proceeding.

Collection cost for loans made from 1981 through 1986

For loans made from 1981 through 1986, many promissory notes contain a limitation on the amount of costs that can be recovered from the borrower (25% of the outstanding principal and interest due on the loan). As this provision has not been applicable since the beginning of the 1987–1988 award year, if these borrowers ask for new advances, the Department strongly encourages schools to issue new promissory notes without this provision and to require the provisions of the new note to apply to repayment of previous advances. The borrower will then be liable for all collection costs on all of his or her outstanding loans borrowed under this program. (However, the advances made prior to the signing of the new note do not qualify for new deferment and cancellation benefits.)

Using Billing and Collection Firms

Your school may use a contractor for billing or collection, but it is still responsible for complying with due diligence regulations regarding those activities. For example, the school, not the billing or collection firm, is responsible for deciding whether to sue a borrower in default. The school is also responsible for decisions about cancelling, or deferring repayment, granting forbearance, extending the repayment period, and safeguarding the funds collected.

If you use a billing service, you may not use a collection firm that owns or controls the billing service or is owned or controlled by the billing service. In addition, you may not use a collection firm if both the collection firm and billing service are owned or controlled by the same corporation, partnership, association, or individual.

Account protection: minimum bond/insurance amounts

A school must ensure that its billing service and collection firm maintain a fidelity bond or comparable insurance to protect the accounts they service.

At least once a year, the school must review the amount of repayments it expects to receive from billing or collection firms to ensure adequate bond or insurance coverage.

A school using a law firm to collect must review the firm's bond or its insurance policy to determine whether the firm is protected against employee misappropriation. If the firm's malpractice insurance also covers misappropriation of funds, that policy is considered to provide coverage.

If you **don't** authorize your collection firm to deduct its fees from borrowers' payments, the firm must be bonded or insured for at least the amount that you expect to be repaid over a two-month period on the assigned accounts.

If you **do** authorize your collection firm to deduct its fees from borrowers' payments, you must ensure that:

- if the amount you expect to be repaid over a two-month period is **less than \$100,000**—the collection firm is bonded or insured for the lesser of (a) 10 times the amount the school expects to be repaid over a two-month period on assigned accounts; or (b) the amount the firm expects to collect in a two-month period on **all** accounts it has in its portfolio (not just the school's account).
- if the amount you expect to be repaid in a two-month period is **\$100,000 or more**—the collection firm has a fidelity bond or comparable insurance **that names your school as the beneficiary** and is bonded or insured for an amount not less than the amount of funds the school can reasonably expect to be repaid during that two-month period.

DEFAULT STATUS AND PERKINS ELIGIBILITY

A borrower who is in default on an FSA loan is not eligible for any other further FSA loans unless they have regained eligibility. (See *Volume 1, Student Eligibility* for guidance on how a student may regain eligibility). However, a borrower who satisfies any of the conditions that remove a Perkins loan from his or her school's cohort default rate calculation becomes eligible for additional Perkins loans only (see *Draft FiSAP Instruction Booklet*).

Satisfactory repayment arrangements

A borrower who is in default on a Perkins Loan may regain eligibility for further federal student aid by making satisfactory repayment arrangements. (See *Volume 1 - Student Eligibility*.) If the borrower has made satisfactory repayment arrangements, the school must appropriately update the loan status code in the National Student Loan Data System.

Perkins Loan rehabilitation

Your school must establish a rehabilitation program and notify all borrowers with defaulted loans of the option to rehabilitate and the advantages of rehabilitation. A borrower may now rehabilitate a defaulted Perkins Loan by making 9 consecutive on-time payments. (Previously, twelve payments were required—see sidebar.)

Borrowers may not rehabilitate loans on which the holder has obtained a judgment. However, your school may enter into an agreement with the borrower that provides the borrower with some of the benefits of rehabilitation. For example, your school could promise to vacate the current judgment and request the removal of the default from the borrower's credit after the borrower makes 12 consecutive payments and signs a new promissory note.

The rehabilitation payments should be sufficient to satisfy the outstanding balance on the loan within a 10-year repayment period. A school may not establish a loan rehabilitation policy that requires defaulted Perkins Loan borrowers to pay the full outstanding balance of the loan within the 12-month rehabilitation period, if such payments would create a hardship for the borrower. In most cases, such a policy would require a borrower to make excessively high monthly payments, and would, in effect, deny the borrower access to a statutorily mandated benefit of the Perkins Loan Program.

Within 30 days of receiving the borrower's last on-time consecutive monthly payment, you must:

- return the borrower to regular repayment status;
- treat the first of the 12 or 9 consecutive payments as the first payment in a new 10-year repayment schedule; and
- instruct any credit bureau to which the default was reported to remove the default from the borrower's credit history.

After rehabilitating a defaulted loan and returning to regular

Cites

Rehabilitation
34 CFR 674.39
Closed school discharge
34 CFR 674.33(g)

Change to rehabilitation requirement **NEW**

The HEOA reduces the number of on-time, consecutive, monthly payments required to rehabilitate a loan from 12 to 9. A school may consider borrowers who began making rehabilitation payments prior to August 14, 2008, to have successfully rehabilitated their loans after making nine qualifying monthly payments if at least one of those payments was made on or after August 14, 2008. A school must treat all of its Perkins Loan borrowers consistently in applying the 12-month or 9-month standard for borrowers who began making rehabilitation payments before August 14, 2008
HEOA section 464
HEA section 464

Rehabilitation agreements prior to November 1, 2002

If, prior to November 1, 2002, you offered rehabilitation to a borrower for loans with judgments, you should honor the rehabilitation agreement. You do not need to offer rehabilitation again if the borrower misses any of the required payments.

Involuntary payments

The term "voluntarily" excludes payments obtained by income tax offset, garnishment, income asset execution, or pursuant to a judgment.

repayment status, a borrower regains the benefits and privileges of the promissory note, including deferment and cancellation.

If a borrower chooses to rehabilitate a defaulted loan and then fails to make 12 consecutive on-time payments, the rehabilitation is unsuccessful, but the borrower may still make further attempts to rehabilitate the defaulted loan. Also, if a borrower successfully rehabilitates a defaulted loan and maintains good standing on the loan, the borrower may continue to attempt to rehabilitate other defaulted Perkins loans. However, if the borrower successfully rehabilitates a defaulted loan, but the loan later returns to default, the borrower may not attempt to rehabilitate that loan again or any other defaulted Perkins loan.

Loans with judgments

When a school has filed suit to collect a defaulted Perkins Loan or NDSL and a judgment has been rendered on the loan, the borrower is obligated to repay only the amount of the judgment obtained on the loan. If the judgment is for less than the outstanding balance on the loan, the school may write off the portion of the loan not covered by the judgment. After a judgment is satisfied on the defaulted loan, the student is again eligible for aid from FSA programs if all other eligibility criteria are met. However, if a borrower has previously satisfied a defaulted student loan *involuntarily* (for instance, through wage garnishment), you should consider this as evidence of unwillingness to repay and should not approve further loan assistance to the borrower.

Previously defaulted loans discharged for school closure

A Perkins Loan made on or after January 1, 1986, may be discharged if the borrower is unable to complete his or her program of study due to the closure of the school that made the loan. A defaulted borrower whose loan is discharged under this closed school provision is eligible for additional federal student aid, provided that he or she meets all other eligibility criteria. (Schools that close must assign all Perkins Loans to FSA Collections. FSA Collections, or the school, if the school still holds the loan, must report to credit bureaus that the loan has been discharged.)

PERKINS ASSIGNMENT

A school may assign nondefaulted Perkins/NDLS loans to FSA Collections. Your school may also assign a *defaulted* Perkins/NDSL loan to FSA Collections if:

- the school has not been able to collect despite having followed due diligence procedures (including at least a first level of collection and litigation, if required by the regulations in effect on the date the loan entered default);
- the total amount of the borrower’s account to be assigned, including outstanding principal, accrued interest, collection costs, and late charges, is \$25 or more; and
- the loan has been accelerated.

You may *not* assign a loan to FSA Collections under the voluntary assignment procedures if:

- the borrower has received a discharge in bankruptcy—unless the bankruptcy court has determined that the student loan obligation is nondischargeable and has entered a judgment against the borrower or unless a court of competent jurisdiction has entered judgment against the borrower on the loan after the entry of the discharge order;
- your school has sued the borrower (unless the judgment has been entered and assigned to the United States); or
- the loan has been discharged because the borrower has died.

Upon notification by the Department, you may be required to assign a Perkins loan if your school has knowingly failed to maintain an acceptable collection record with regard to the loan or chooses to stop servicing and collecting its Perkins Loans.

See Chapter 1 for assignment of nondefaulted loans (for example if your school is closing or is withdrawing from the Perkins program).

Required documentation

A school *may be required* to submit the following documents to FSA Collections for any loan it proposes to assign:

- one original and one photocopy of the assignment form;
- the original promissory note or a certified copy of the original note;
- a copy of the repayment schedule and a complete statement of the payment history;
- copies of all approved requests for deferment and cancellation;
- a copy of the notice to the borrower of the effective date of acceleration and the total amount due on the loan;
- documentation that the school has withdrawn the loan from any firm that it employed for address search, billing,

Assignment Form and Procedures

34 CFR 674.50

Dear Colleague Letter CB-06-12

Assignment address

A school should mail assignments to:

U.S. Department of Education
Perkins Loan Assignment
Processing Center
P.O. Box 4136
Greenville, TX 75403-4136

Reporting “date(s) of first disbursement” on loan manifest

You must report the date each assigned loan was disbursed (attached to the Institutional Certification page of the Perkins Assignment form). The dates listed must match the date of first disbursement initially reported by your school to NSLDS. If multiple loans were combined into one loan, you list the date of first disbursement for the first loan in the combination. If a student received multiple loans reported separately, you list the date of first disbursement for each loan. For more details, see Dear Colleague Letter CB-06-12.

Mandatory assignment

NEW

The Department no longer has the authority to require mandatory assignment of Perkins Loans based on an school’s Program Participation Agreement.

The Department continues to have the authority to require mandatory assignment if a school has knowingly failed to maintain an acceptable collection record with regard to the loan or chooses to stop servicing and collecting its Perkins Loans. This statutory change nullifies the mandatory assignment regulations in 34 CFR 674.8(d)(3).

HEOA 463

Effective date: August 14, 2008

Assignment under e-signed or Perkins MPN

If you assign loans that were made under an electronically signed promissory note, you must cooperate with the Department in all activities necessary to enforce the loan.

You may be asked to provide an affidavit or certification regarding the creation and maintenance of electronic records of the loan. This affidavit or certification must establish that the records are created and maintained in a form appropriate to ensure admissibility of the loan records in a legal proceeding.

The affidavit or certification must:

- describe the steps followed by the borrower to execute the promissory note;
- include copies of screen shots that would have appeared to the borrower when the borrower signed the note electronically;
- describe field edits and other security measures used to ensure data integrity;
- describe how the promissory note has been preserved to ensure it has not been altered;
- include documentation supporting the school's authentication and electronic signature process; and
- provide any other documentary and technical evidence requested by the Department.

The affidavit or certification may be executed in a single record for multiple loans provided that this record is reliably associated with the specific loans to which it pertains.

An authorized official or employee of the school may have to testify to ensure admission of the electronic records of the loan or loans in the litigation or legal proceeding to enforce the loan or loans.

Your school's most recent audit must assess how well your school's e-sign authentication process meets the Department's "Standards for Electronic Signatures in Electronic Student Loan Transactions" (as specified in DCL GEN-01-06)

collection, or litigation services and has notified that firm to cease collection activity on the loans;

- copies of all pleadings filed or received by the school on behalf of a borrower who has filed a petition in bankruptcy and whose loan obligation is determined to be nondischargeable;
- a certified copy of any judgment order entered on the loan; and
- documentation that the school has complied with all of the due diligence requirements if the school has a cohort default rate that is equal to or greater than 20% as of June 30 of the second year preceding the submission period.

If you assign loans made under the Perkins MPN, you must maintain disbursement records that document the principal amount loaned until the loan is paid off or otherwise satisfied. You may include disbursement records with the assignment submission. For more details, see the most recent Dear Colleague Letter on this topic. (At this writing, CB-06-12 is being updated.)

Terms of assignment

If FSA Collections accepts the assignment of a loan, it will give the school written notice to that effect. *By accepting the assignment, the Department acquires all rights, title, and interest in the loan.* You must endorse and forward to the Department any subsequent payment(s) the borrower may make.

If FSA Collections later determines an assigned loan to be unenforceable because of an act or omission on the part of your school or its agent, your school may have to compensate the Perkins Loan Fund in the amount of the unenforceable portion of the outstanding balance. Once the fund is reimbursed, the Department transfers all rights to the loan back to the school.

A borrower whose loan has been assigned to the United States for collection continues to be in default on the loan and is ineligible for FSA funds until the borrower provides confirmation from FSA Collections that he or she has made satisfactory arrangements to repay the loan.

PERKINS COHORT DEFAULT RATES

Defining and calculating the Perkins cohort default rate

Your school's cohort default rate is calculated for a particular year based on information you report in Part 3, Sections D and E of the FISAP. For detailed information on how your school's cohort default rate is determined, see Part III of the Draft FISAP Instruction Booklet available under "Publications" on the IFAP Web site.

Years counted in Perkins cohort default rate calculation

For any award year in which *30 or more borrowers enter repayment*, the cohort default rate is the percentage of those current and former students who enter repayment *in that award year* on loans received for attendance at that school and *who default before the end of the following award year*.

For any award year in which *fewer than 30 current and former students at the school enter repayment* on a loan received at the school, the cohort default rate is the percentage of those current and former students who entered repayment on loans received for attendance at that school in any of the *three most recent award years* and who defaulted on those loans before the end of the award year immediately following the year in which they entered repayment.

Counting loans & borrowers in default

For purposes of the cohort default rate, a loan enters repayment only once in its life. This repayment begins the day after the end of the initial grace period or the day that the borrower waives his or her initial grace period.

A borrower is included in determining the school's cohort default rate if the borrower's default has persisted for at least 240 consecutive days for a loan repayable monthly or 270 consecutive days for a loan repayable quarterly.

Penalties for high default rates

If the school's cohort default rate is

- 25% or higher, the school's FCC will be reduced to zero.
- 50% or higher for the 3 most recent years, the school is ineligible to participate in the Federal Perkins Loan Program and must liquidate its loan portfolio.

A school may appeal a determination of ineligibility if the appeal is based on an inaccurate calculation of its cohort default rate or a low number of borrowers entering repayment. A school appeals a determination of ineligibility based on an inaccurate calculation by adjusting the cohort default rate data on the FISAP.

Perkins cohort default rate calculation

34 CFR 674.5(b)

Loans included in the cohort default rate

34 CFR 674.5(c)

Loans not included in CDR

34 CFR 674.5(c)(3)

Perkins cohort default rates listing

The *Federal Perkins Loan Program Status of Default*, known as the Orange Book, lists the cohort default rates for each school that participate in the Perkins program. See the "Publications" area on the IFAP Web site.

Cohort default rate for multiple locations or change of ownership

If a school has a branch or branches or has an additional location or locations, the school's cohort default rate applies to all branches and locations of the school as they exist on the first day of the award year for which the rate is calculated. The cohort default rate applies to all branches/locations of the school from the date the Department notifies the school of the rate until the Department notifies the school that the rate no longer applies.

For more information about the effect of changes of ownership and the treatment of multiple locations in the Perkins rate calculation, see 34 CFR 674.5(d)

Penalty for High CDR

34 CFR 674.5(a)

Adjusting past-due status example

Marty's oldest dollar is 240 days past due. He files a request for a deferment based on the fact that he is attending school and the enrollment period began on the date that the loan became 90 days past due. The past-due status of the loan is reduced to 90 days, and the loan is given a deferment status. This loan is treated as if the 240-day threshold had never been reached. Therefore, it would not be counted in the school's cohort default rate.

Loan not included in Perkins default rate

The following loans are not treated as defaults when reporting borrower status on Part III of the FISAP:

- loans on which borrowers have made 6 consecutive monthly payments;
- loans on which borrowers have “voluntarily” made all payments currently due;
- loans that borrowers have repaid in full;
- loans for which borrowers have received deferments or forbearance based on conditions that began prior to loans becoming 240/270 days past due;
- loans that have been rehabilitated;
- loans repaid in full under a compromise repayment agreement in accordance with 674.33(e);
- loans that have been discharged due to death or permanent disability, bankruptcy, or a school closing; and
- loans that have been assigned to the ED for determination of eligibility for total and permanent disability discharge.

Rules for calculating the number of days in default

For purposes of reporting on Part III of the FISAP, a school should use the following rules to calculate the number of days a loan has been in default:

- The 240/270 consecutive days in default is determined by calculating the “age” of the account (that is, the number of consecutive days the oldest dollar is past due).
- A payment that a borrower makes on a past-due loan is applied to the oldest dollars first, effectively reducing the past-due status.
- A loan on which a borrower is past due and on which the borrower makes an occasional payment but never becomes current could be counted as a defaulted loan for the cohort default rate calculation despite the occasional payments. Because the delinquency is not being cured, the oldest past-due dollar could eventually become 240 days past due, making the loan count in the default rate calculation. However, if the borrower makes enough occasional payments to prevent the oldest past-due dollar from becoming 240 days old, the loan would not be counted as being in default.
- An exception to the 240/270-day threshold will be granted in a case where a borrower (1) would have qualified for a deferment for a period beginning prior to the loan hitting the 240/270-day threshold and (2) failed to file a request for the deferment in a timely manner. For such a borrower, the loan's past-due status would be adjusted to reflect the deferment period beginning date. However, the borrower would need to pay any past-due amounts that were due prior to the beginning of the authorized deferment periods, if the deferment period beginning date does not eliminate the loan's entire delinquency.